

# 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY**

#### **01.01.01 - IDAHO ACCOUNTANCY RULES**

##### **DOCKET NO. 01-0101-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 54-204(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the July 2, 2003 Idaho Administrative Bulletin, Volume 03-7, pages 15 through 19.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Barbara R. Porter, Executive Director, at 208-334-2490.

DATED this 7th day of October, 2003.

Barbara R. Porter, Executive Director  
Idaho State Board of Accountancy  
1109 Main Street, Owyhee Plaza Suite 470  
PO Box 83720  
Boise, Idaho 83720-0002  
Phone: 208-334-2490  
Fax: 208-334-2615  
E-mail: bporter@boa.state.id.us

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### **IDAPA 01, TITLE 01, CHAPTER 01**

#### **IDAHO ACCOUNTANCY RULES**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 15 through 19.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 01 - IDAHO BOARD OF ACCOUNTANCY**

#### **01.01.01 - IDAHO ACCOUNTANCY RULES**

**DOCKET NO. 01-0101-0301**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 54-204(1) Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rules implement the changes that were approved by the 2003 Legislative Session in HB 31, which becomes law on July 1, 2003. HB 31 was our clean up or "trailer bill" to the Uniform Accountancy Act Legislation of 2002. The 2002 legislation was a complete rewrite of the Idaho Accountancy Act. As with any major change to Idaho Code, the State Board found a series of technical corrections that needed to be made. House Bill 31 clarified intent and corrected inconsistent references.

The proposal: reiterates a license not renewed within 30 days of the deadline goes into lapsed status; requires licensees to disclose discipline taken against their license in another state; allows us to grant practice privileges to other states' licensees who were licensed in 4 of the last 10 years; uses standard wording when referring to services provided "in this state"; provides for the reinstatement of an inactive or retired license; and allows licensees to elect inactive or retired status at any time, rather than only during license renewal.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b) and 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

HB 31 was passed during the 2003 Legislative Session with an effective date of July 1, 2003. Temporary rules are necessary to implement the new facets of the law at the time the law becomes effective.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Board of Accountancy held public hearings around the state, conducted surveys of interested parties, and sent multiple newsletters on the issues.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning this rulemaking, contact Barbara R. Porter, Executive Director, at 208-334-2490.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 19th day of May, 2003.

Barbara R. Porter, Executive Director  
Idaho State Board of Accountancy  
1109 Main Street, Owyhee Plaza - Suite 470  
PO Box 83720, Boise, Idaho 83720-0002  
Phone: 208-334-2490 / Fax: 208-334-2615  
E-mail: bporter@boa.state.id.us

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### THE FOLLOWING IS THE TEXT OF DOCKET NO. 01-0101-0301

#### 301. ANNUAL LICENSE RENEWAL AND LATE FEE (Rule 301).

**01. Renewal.** Licenses shall expire on June 30 of each year. Practice privileges shall be granted through June 30 of each year provided the individual maintains an active license in good standing in his state of principle place of business. To renew, an individual must submit a renewal form and appropriate fee by the prescribed date. The renewal form shall require the individual to provide a business address and phone number, residence address and phone number, business connection or employer, whether or not the individual's work is subject to peer review, affidavit of good moral character, and other information as deemed necessary by the Board. (4-2-03)

**02. Non-Renewal.** Individuals choosing not to renew their license or practice privileges shall notify the Board, on the renewal form by the expiration date, of their intention. Upon such notification, the license or privileges shall be deemed lapsed. Individuals with lapsed licenses or practice privileges shall not publicly display their wall certificates, use the title CPA or LPA, or provide services that are reserved to licensees. (4-2-03)

**03. Late Fee.** Licenses and practice privileges renewed after July 1, but before August 1, shall be subject to the late renewal fee as prescribed in Rule 703. After August 1, ~~the Board may initiate suspension proceedings~~ any license not renewed shall be deemed lapsed and is subject to reinstatement pursuant to Section 54-2191, Idaho Code. ~~(4-2-03)~~(7-1-03)T

#### 302. NOTIFICATION OF CHANGE OF ADDRESS, FELONY CHARGES, OR ACTIONS TAKEN (Rule 302).

Within thirty (30) days after its occurrence, a licensee or individual granted practice privileges shall notify the Board, in writing, of: (4-2-03)

**01. Address Change.** A change in the licensee's business address, residence address, or business connection, employer, or principal place of business; (4-2-03)

**02. Felony Charge.** Any felony charges; or (4-2-03)

**03. Actions Taken.** The issuance, denial, disciplinary action, restriction, revocation, or suspension of a certificate, license, or permit by another state or by any federal agency. ~~(4-2-03)~~(7-1-03)T

#### 303. PRACTICE PRIVILEGES (Rule 303).

**01. Substantially Equivalent.** An individual who holds an active license in another state, whose principal place of business is not in this state, seeking practice privileges in this state, must certify, on a form prescribed by the Board, that either: (4-2-03)

**a.** The individual's license is from a jurisdiction with education, examination, and experience requirements comparable to or exceeding such requirements in this state; or (4-2-03)

**b.** The individual licensee's education, examination, and experience qualifications are comparable to or exceed such requirements of this state; or ~~(4-2-03)~~(7-1-03)T

**c.** The individual has no less than four (4) years' experience, provided the experience was obtained after original licensure as a certified public accountant and within the ten (10) years immediately preceding the practice privilege application. (7-1-03)T

**02. Notice.** A qualified individual seeking practice privileges in this state must comply with the notice requirement as follows: (4-2-03)

**a.** Notice shall be on forms prescribed by this Board providing such information as deemed necessary



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by the Board; (4-2-03)

**b.** Notice is immediately due and shall be received by the Board within fifteen (15) days after the qualified individual knowingly avails himself of the laws of this state by either accepting an engagement or an assignment to render professional services to persons in this state, or offering to render professional services through direct solicitation or marketing targeted to persons in this state, whether or not the qualified individual physically enters this state; (4-2-03)

**c.** The qualified individual shall accept responsibility for compliance with the Idaho Accountancy Act and these rules; (4-2-03)

**d.** Notice shall include a statement from the qualified individual agreeing to notify the Board and submit a reciprocity license application if the individual moves his principal place of business to this state; and (4-2-03)

**e.** Notice must be accompanied by the fee prescribed in Rule 701. (4-2-03)

**03. Internet Disclosures.** An individual entering into an engagement to provide professional services via a web site, pursuant to practice privileges granted by Idaho, shall disclose, via their web site, their principle state of licensure, license number, and address. A firm offering or rendering professional services to Idaho businesses or residents via a web site shall provide, in the web site's homepage, a means for regulators and the public to contact a responsible licensee in charge at the firm regarding complaints, questions, or regulatory compliance. (4-2-03)

**04. Exclusion.** Non-resident individuals shall not be deemed to have entered this state for purposes of Section 54-227, Idaho Code and notice is not required if the individual's contact with this state is limited to any of the following activities: (4-2-03)

**a.** Teaching either a college or continuing professional education course; (4-2-03)

**b.** Delivering a lecture; (4-2-03)

**c.** Moderating a panel discussion; (4-2-03)

**d.** Rendering professional services to the individual's employers or to persons employed by the individual's employer, including affiliated, parent, or subsidiary entities, provided such services are not rendered for the employer's clients; (4-2-03)

**e.** Performing peer reviews for a qualified administering organization; (4-2-03)

**f.** Providing professional services during no more than ten (10) days cumulatively in any calendar year ~~by either accepting an engagement or an assignment to render Professional Services to persons in this state, or offering to render Professional Services through direct solicitation or marketing targeted to persons in this state, whether or not the qualified individual physically enters this state.~~ (4-2-03)(7-1-03)T

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **502. EXCEPTIONS, EXTENSIONS, AND EXEMPTIONS (Rule 502).**

**01. Exceptions And Extensions.** The Board may make exceptions to the CPE requirements or grant extensions of time for completion of the CPE requirements, where reasons of health as certified by a medical doctor prevent compliance by the licensee, or other good cause exists. (4-2-03)

**a.** Licensees asking for exceptions or extensions under these conditions must apply annually on the reporting form for the year in which the extension or exemption is sought, and within the time period set for CPE

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reporting, stating the reasons for asking for such exception or extension. Any licensee failing to file a timely application shall be subject to the late fee prescribed in Rule 703, in addition to any additional proceeding that may be instituted for violation of these rules. (4-2-03)

b. A penalty of no more than fifty percent (50%) of the hours a licensee is short in meeting the calendar year CPE requirement may be assessed for extensions. In such cases, the licensee shall be required to complete the CPE hours and any assessed penalty no later than May 31. (4-2-03)

**02. Exemptions For Inactive Or Retired.** Licensees who elect inactive or retired status ~~at the time of license renewal~~ shall be exempt from any CPE requirements provided that: ~~(4-2-03)~~ (7-1-03)T

a. The licensees do not perform or offer to perform for the public services involving: (4-2-03)

i. The use of accounting or auditing skills including the issuance of reports on financial statements, or of management advisory, financial advisory or consulting services; or (4-2-03)

ii. The preparation of tax returns, or the furnishing of advice on tax matters as a licensee. (4-2-03)

b. Licensees granted such exemption must place the word "inactive" adjacent to their CPA or LPA title on any business card, letterhead or any other document or device. The Board shall issue a wall certificate for public display that indicates the license is inactive; (4-2-03)

c. Those individuals who are inactive and have reached sixty (60) years of age may substitute the word "retired" for the word "inactive"; (4-2-03)

d. Licensees granted the exemption as either "inactive" or "retired" shall annually pay the license renewal fee as prescribed in Rule 701; and (4-2-03)

e. Licensees granted the exemption must comply with a return to active status competency requirement as set out in Rule 510 before they may discontinue use of the word "inactive" or "retired" in association with their CPA or LPA title. (4-2-03)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 510. NEW LICENSEES, RECIPROCITY, REINSTATEMENT AND RE-ENTRY (Rule 510).

**01. New Licensees.** A new licensee will be required to comply with the CPE requirement beginning January 1st of the calendar year following the year in which the license was granted. The new licensee shall file the annual reporting form indicating that the licensee is exempt from obtaining CPE hours during the first year of licensure. The licensee shall be required to complete a minimum of thirty (30) hours during the second calendar year of licensure. (4-2-03)

**02. Reciprocity.** An individual who holds a valid and unrevoked certified public accountant license issued by any state, or comparable certificate or degree issued by any foreign country, and who receives a license to practice in this state, will be required to comply with the CPE requirement beginning January 1st of the calendar year following issuance of the license. The new licensee shall file the annual CPE reporting form, indicating the licensee is exempt from obtaining CPE hours during the first year of licensure. The licensee shall be required to complete a minimum of thirty (30) hours during the second calendar year of licensure. (4-2-03)

**03. Reinstatement.** An individual whose license has lapsed under Rule 301 shall complete no less than eighty (80) hours of CPE during the twelve (12) months immediately prior to applying for reinstatement of an active license. The applicant shall be required to identify and complete a program of learning designed to demonstrate the currency of the applicant's competencies directly related to his area of service. An individual whose license lapsed under Rule 301 applying for reinstatement of an inactive or retired license is not required to meet a CPE requirement.

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**IDAHO BOARD OF ACCOUNTANCY**  
**Idaho Accountancy Rules**

**Docket No. 01-0101-0301**  
**Temporary and Proposed Rulemaking**

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The applicant shall pay the license reinstatement fee prescribed in Rule 701 and shall have met the reinstatement requirements of Section 54-211, Idaho Code. ~~(4-2-03)~~(7-1-03)T

**04. Re-Entry From Inactive Or Retired Status.** A licensee, granted an exemption from the CPE requirement under Rule 502, may discontinue use of the word “inactive” or “retired” in association with the CPA or LPA title upon showing that the licensee has completed no less than eighty (80) hours of CPE during the twelve (12) months immediately prior to applying for return to active status. The licensee shall be required to identify and complete a program of learning designed to demonstrate the currency of the licensee’s competencies directly related to the licensee’s area of service. The licensee shall pay the annual license renewal fee prescribed in Rule 701. If a licensee applies for re-entry during a license period and has already paid the fee for an inactive or retired license, the licensee is required to pay the difference between the cost of an inactive or retired license and the annual license renewal fee. (4-2-03)

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### **IDAPA 07 - DIVISION OF BUILDING SAFETY**

#### **07.02.01 - RULES GOVERNING REPEAL OF EXISTING PLUMBING PERMIT RULES**

##### **DOCKET NO. 07-0201-0301 - (CHAPTER REPEAL)**

##### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2605(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume 03-8, page 26. This chapter is being repealed in its entirety.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 332-7154.

DATED this 29th day of October, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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**THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.**

#### **IDAPA 07, TITLE 02, CHAPTER 01**

#### **RULES GOVERNING REPEAL OF EXISTING PLUMBING PERMIT RULES**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, page 26.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 07 - DIVISION OF BUILDING SAFETY**

#### **07.02.01 - RULES GOVERNING REPEAL OF EXISTING PLUMBING PERMIT RULES**

##### **DOCKET NO. 07-0201-0301 (CHAPTER REPEAL)**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 54-2605(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule change repeals IDAPA 07.02.01 - Rules Governing Repeal of Existing Plumbing Permit Rules, Division of Building Safety as the chapter is no longer of any force or effect.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees being charged or imposed in this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is housekeeping in nature and the chapter being repealed is no longer of any force or effect.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 332-7154.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2003.

DATED this 27th day of June, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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**IDAPA 07.02.01 IS BEING REPEALED IN ITS ENTIRETY**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 07 - DIVISION OF BUILDING SAFETY**

#### **07.02.07 - RULES GOVERNING READOPTION OF RULES OF PLUMBING DIVISION**

##### **DOCKET NO. 07-0207-0301 - (CHAPTER REPEAL)**

##### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-2605(1), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume 03-8, page 27. This chapter is being repealed in its entirety.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Ted Hogander, Plumbing Bureau Chief, 332-7154.

DATED this 29th day of October, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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**THIS CHAPTER IS BEING REPEALED IN ITS ENTIRETY.**

### **IDAPA 07, TITLE 02, CHAPTER 07**

#### **RULES GOVERNING READOPTION OF RULES OF PLUMBING DIVISION**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, page 27.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 07 - DIVISION OF BUILDING SAFETY**

#### **07.02.07 - RULES GOVERNING READOPTION OF RULES OF PLUMBING DIVISION**

##### **DOCKET NO. 07-0207-0301 (CHAPTER REPEAL)**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 54-2605(1), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 21, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule change repeals IDAPA 07.02.07 - Rules governing readoption of rules of plumbing division, Division of Building Safety as the chapter is no longer of any force or effect.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees being charged or imposed in this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is housekeeping in nature and the chapter being repealed is no longer of any force or effect.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Ted Hogander, Plumbing Bureau Chief, 332-7154.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2003.

DATED this 27th day of June, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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**IDAPA 07.02.07 IS BEING REPEALED IN ITS ENTIRETY**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 07 - DIVISION OF BUILDING SAFETY**

#### **07.03.03 - RULES GOVERNING MODULAR BUILDINGS**

**DOCKET NO. 07-0303-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 25 through 27.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, 332-7151.

DATED this 29th day of October, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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### **IDAPA 07, TITLE 03, CHAPTER 03**

#### **RULES GOVERNING MODULAR BUILDINGS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 25 through 27.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 07 - DIVISION OF BUILDING SAFETY

#### 07.03.03 - RULES GOVERNING MODULAR BUILDINGS

DOCKET NO. 07-0303-0301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is August 7, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 39-4107, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The temporary and proposed rule change is housekeeping in nature and eliminates reference to provisions for replacing lost insignia for modular buildings, which historically never occurs. This rule change also deletes fees for out of state inspection charges as the Building Bureau no longer performs out of state inspections. Lastly, the change deletes references to plumbing and electrical fees, which are charged by the Plumbing and Electrical Bureaus.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate as the change confers a benefit to the public by eliminating unnecessary fees.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the temporary and proposed rule changes are housekeeping in nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
(208) 334-3951 / (208) 855-2164

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0303-0301

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF BUILDING SAFETY Rules Governing Modular Buildings**

**Docket No. 07-0303-0301  
Temporary and Proposed Rulemaking**

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#### **017. INSIGNIA.**

**01. Required Insignia.** Each modular building section substantially prefabricated and assembled shall bear a division insignia prior to leaving the manufacturing facility. Assigned insignia are not transferable and are void when not affixed as assigned. All such voided insignia shall be returned to, or may be confiscated by the division. Insignia remain the property of the division and may be reappropriated by the division in the event of violation of conditions of approval. Assigned insignia affixed in the field shall be under the direction of the division's authorized agent. (5-3-03)

**a.** Single units shall have the insignia permanently attached below the electrical service entrance. (6-12-79)

**b.** Multiple section units shall have the insignia permanently attached on all perimeter sections to the outside wall next to the major access opening. For interior units and second story units the insignia shall be permanently attached on the interior wall next to the major access opening. (6-12-79)

**c.** Each section of a multiple modular building shall have the same identifying serial number followed by a numerical sequence identifier and letter suffix. (5-3-03)

**02. Application For Insignia.** The manufacturer shall make application for an insignia for each unit to be manufactured as required by IDAPA 07.03.03.017.01. The permit/insignia application shall be submitted to the division in accordance with IDAPA 07.03.06 and shall include the appropriate fees. Applications shall include the serial number of each unit for which an insignia is requested. (5-3-03)

**03. Alteration Or Conversion.** (6-12-79)

**a.** Factory alterations or conversions of an approved modular building prior to first occupancy shall NOT take place until a permit under the provisions of IDAPA 07.03.06 has been obtained. (5-3-03)

**b.** Non-factory alterations or conversions. The jurisdiction for non-factory produced additions, repairs or alterations to modular buildings and commercial coaches built in conformance with and as prescribed in the Idaho Building Code Act, Section 39-4109, Idaho Code, once such unit has left the manufacturing facility and/or a dealer's lot, and bears an appropriate insignia of compliance, rests with the local unit of government having the jurisdiction for the administration and enforcement of locally adopted codes prescribed within the Idaho Building Code Act. (5-3-03)

**04. Denial Of Insignia.** Should inspection reveal that a manufacturer is not manufacturing units according to the codes specified in Title 39, Chapter 41, Idaho Code, and these rules, and such manufacturer after having been served with a notice setting forth in what respect the provisions of the codes or rules have been violated continues to manufacture units in violation of the codes or rules, applications for new insignia shall be denied and insignia issued for units in noncompliance such manufacturer may resubmit an application for insignia. (5-3-03)

**05. Removal Of Insignia.** (6-12-79)

**a.** In the event any unit bearing an insignia is found to be in violation of the codes enumerated in Title 39, Chapter 41, Idaho Code, or these rules, the division may remove the insignia and shall furnish the owner or his agent with a written statement of violations. (5-3-03)

**b.** The owner or his agent shall request an inspection after making corrections to bring the unit into compliance before the division shall issue a replacement insignia. (5-3-03)

~~**06. Lost Insignia.**~~ (6-12-79)

~~**a.** When an insignia of approval becomes lost or damaged, the division shall be notified immediately in writing by the owner. The owner shall specify the manufacturer, the unit serial number, and when possible the insignia number.~~ (5-3-03)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF BUILDING SAFETY Rules Governing Modular Buildings**

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**Docket No. 07-0303-0301  
Temporary and Proposed Rulemaking**

~~**b.** All damaged insignia shall be promptly returned. Damaged or lost insignia shall, upon payment of the replacement insignia fee as provided in the fee schedule, be replaced by the division with a replacement insignia, which shall bear the date of issue of the original insignia, and which shall be designated as a replacement insignia, provided the unit still meets the standards prescribed by these rules.~~ (5-3-03)

#### **018. FEE SCHEDULE.**

**01. Modular Building Fees.** Other than as herein specified in this section, the fee schedule for modular buildings shall be as provided by IDAPA 07.03.06, and such fees shall be based on the Freight On Board (FOB) cost to the dealer at the point of manufacture. (5-3-03)

~~**02. Plumbing And Electrical Fees.** In addition to the fees prescribed in IDAPA 07.03.03.019.01, plumbing and electrical inspection fees in accordance to those prescribed in the Plumbing Laws and Regulations and the Electrical Laws and Regulations shall apply, and shall be paid to the division.~~ (5-3-03)

~~**03. Requested Inspection, Out Of State And Field Technical Service Fees.** Fee equal to total travel cost based on published air fare, or equivalent rate, between Boise, Idaho, and the location of the factory or site plus necessary supplemental surface transportation, and reimbursement for the actual cost of food and lodging plus the fees prescribed in this section.~~ (1-13-81)

~~**04. Insignia Replacement Fee.** Ten dollars (\$10).~~ (1-13-81)

**052. Plan Review Fee.** For all systems, the plan approval fees shall be charged as specified in IDAPA 07.03.01.015.03, thirty-six dollars (\$36) per hour. (1-13-81)

**063. Insignia Tag Fee.** In instances where building permit fees are not charged for modular buildings, a twenty-five dollar (\$25) fee will be charged for an insignia. (5-3-03)

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 07 - DIVISION OF BUILDING SAFETY**

#### **07.03.08 - RULES GOVERNING COMMERCIAL COACHES**

**DOCKET NO. 07-0308-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-4107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 28 and 29.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, 332-7151.

DATED this 29th day of October, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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### **IDAPA 07, TITLE 03, CHAPTER 08**

#### **RULES GOVERNING COMMERCIAL COACHES**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 28 and 29.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 07 - DIVISION OF BUILDING SAFETY**

#### **07.03.08 - RULES GOVERNING COMMERCIAL COACHES**

**DOCKET NO. 07-0308-0301**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 7, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section 39-4107, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: The temporary and proposed rule change is housekeeping in nature and eliminates reference to provisions for replacing lost insignia for commercial coaches, which historically never occurs. Prior rulemaking eliminated the insignia replacement fee altogether, but missed this reference.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate as the change confers a benefit to the public by eliminating unnecessary fees.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the temporary and proposed rule changes are housekeeping in nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Bureau Chief, Division of Building Safety, (208) 332-7151.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
(208) 334-3951 / (208) 855-2164

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#### **THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0308-0301**

##### **017. INSIGNIA.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF BUILDING SAFETY Rules Governing Commercial Coaches**

### **Docket No. 07-0308-0301 Temporary and Proposed Rulemaking**

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**01. Required Insignia.** All commercial coaches offered for rent, lease or sale in the state of Idaho, shall bear division insignia of compliance prior to leaving the manufacturing plant. (5-3-03)

**02. Assignment Of Insignia.** Each insignia shall be assigned and affixed to a specific unit. Assigned insignia are not transferable and are void when not affixed as assigned. All assigned insignia not affixed to the specific unit shall be returned to, or may be confiscated by, the division. The insignia shall remain the property of the division, and may be reappropriated by the division in the event of violation of the conditions of approval. (5-3-03)

**03. Application For Insignia.** Following receipt of plan approval, the unit manufacturer shall make application for an insignia for each unit offered for rent, lease or sale in the state of Idaho. The permit/insignia application shall be submitted to the division, accompanied by the appropriate insignia fees pursuant to IDAPA 07.03.08.019. The application shall include the plan approval number, model designation and the serial number of each unit for which an insignia is requested. Multiple units shall be designated where applicable. An insignia is required for each section of the multiple units. (5-3-03)

**04. Denial Of Insignia.** Should inspection reveal that the manufacturer is not manufacturing units according to plans approved by the division and such manufacturer, after having been served with written notice setting forth in concise terms the violation, continues to manufacture units without correcting any such violations, applications for new insignia shall be denied and the insignia previously issued shall be subject to confiscation. Upon satisfactory proof of compliance, such manufacturer may resubmit an application for insignia. (5-3-03)

**05. Removal Of Insignia.** In the event that any unit bearing an insignia is found to be in violation of these rules and regulations, the division shall remove the insignia after furnishing the manufacturer, renter, lessor owner, or agent thereof, with a written statement of such violation. The division shall not issue a new insignia until corrections have been made and the manufacturer, owner, renter, lessor, or agent thereof has requested an inspection pursuant to IDAPA 07.03.08.015. (5-3-03)

~~**06. Lost Insignia.** When an insignia of compliance becomes lost or damaged by the owner of a unit, the division shall be notified immediately in writing by the owner. The owner shall specify the manufacturer, the unit's serial number, and when possible, the insignia number. All damaged insignia shall be promptly returned. Damaged or lost insignia shall be replaced by the division with a replacement insignia which shall bear the date of the original insignia, and which shall be designated as a replacement insignia upon payment of the replacement insignia fee as provided in IDAPA 07.03.08.019. (5-3-03)~~

**076. Serial Number.** Each commercial coach rented, leased or sold, or offered for rent, lease or sale in Idaho, shall bear a legible identifying serial number in accordance with the provisions of this section, which shall include the state of manufacture. (12-5-75)

**087. Stamp Of Serial Number And State Of Manufacture.** The unit serial number and the state of manufacture shall be stamped into the foremost crossmember of all commercial coaches. Letters and numbers shall be three-eighths (3/8) inch minimum height. Numbers shall not be stamped into a hitch assembly or draw bar. The insignia shall be made of etched brass, stainless steel, anodized or alclad aluminum, or other approved material, not less than two hundredths (0.02) inches thick, and three (3) inches by one and three-fourths (1 3/4) inches minimum size, with lettering not less than one-eighth (1/8) inch high. (3-1-79)

~~**098. Multiple Commercial Coaches.** Each section of multiple commercial coaches shall have the same identifying serial number followed by a numerical sequence identifier and letter suffix. (5-3-03)~~

~~**409. Data On Insignia.** The date of manufacture, showing month, week and year will be shown on the insignia. Such data will be provided by the manufacturer on the application for insignia. (12-5-75)~~

~~**140. Insignia Location.** All insignias shall be located not less than six (6) inches above the floor line. Single units shall have the insignia permanently attached on the exterior wall adjacent to the main door. Multiple section units shall have the insignia permanently attached on all perimeter sections to the outside wall next to the major access opening. For interior units the insignia shall be permanently attached on the interior wall next to the major access opening. (12-5-75)~~

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 07 - DIVISION OF BUILDING SAFETY**

#### **07.03.12 - RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS**

**DOCKET NO. 07-0312-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 44-2201, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, page 30.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, 332-7151.

DATED this 29th day of October, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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### **IDAPA 07, TITLE 03, CHAPTER 12**

#### **RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, page 30.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 07 - DIVISION OF BUILDING SAFETY

#### 07.03.12 - RULES GOVERNING MANUFACTURED OR MOBILE HOME INSTALLATIONS

DOCKET NO. 07-0312-0301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 44-2201, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: The temporary and proposed rule change replaces the adopted January 1, 2003 edition of the "Idaho Manufactured Home Installation Standard" (Standard) with the January 1, 2004 edition. The January 1, 2004 revised standard incorporates important new provisions to require derating of gas and oil appliances to prevent unsafe combustion and carbon monoxide poisoning. Various minor changes have been made within the Standard.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(a) and (c), Idaho Code, the Governor has found this temporary adoption of the rule is appropriate as the change is necessary to protect the public safety and confers a benefit to the industry.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the temporary and proposed rule changes are housekeeping in nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Bureau Chief, 332-7151.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0312-0301

##### 004. ADOPTION AND INCORPORATION BY REFERENCE.

The Idaho Manufactured Home Installation Standard (January 1, 2003~~4~~) edition) is hereby adopted and incorporated by reference into IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," Division of Building Safety. A current copy is available for review or copying at the office of the Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642. ~~(5-3-03)(1-1-04)T~~



## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 07 - DIVISION OF BUILDING SAFETY**

#### **07.05.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD**

**DOCKET NO. 07-0501-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1904, 54-1907 and 54-1910 through 54-1912, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, pages 31 through 43.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Jack Rayne, Building Bureau Chief, 332-7151.

DATED this 29th day of October, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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### **IDAPA 07, TITLE 05, CHAPTER 01**

#### **RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 31 through 43.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 07 - DIVISION OF BUILDING SAFETY

#### 07.05.01 - RULES OF THE PUBLIC WORKS CONTRACTORS LICENSE BOARD

##### DOCKET NO. 07-0501-0301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section(s) 54-1904, 54-1907 and 54-1910 through 54-1912, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule changes are necessary to implement the legislation adopted by the 1999 and 2001 Legislatures. The changes update office information, clarify the application and hearing processes, add definition of terms, and delete references to language that already appear in statute. Also adds required sections to beginning of rule.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule change is housekeeping in nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Jack Rayne, Building Bureau Chief, 332-7151.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August, 2003.

Dave Munroe, Administrator  
Division of Building Safety  
1090 E. Watertower St.  
Meridian, Idaho 83642  
Phone: (208) 334-3951  
Fax: (208) 855-2164

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 07-0501-0301

##### 000. LEGAL AUTHORITY.

*The authority of the Board to adopt rules of practice and procedure is provided in* This chapter is adopted pursuant to Section 54-1907, Idaho Code, as amended. ~~(7-1-93)~~( )

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### **DIVISION OF BUILDING SAFETY Public Works Contractors License Board**

**Docket No. 07-0501-0301  
Proposed Rulemaking**

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**001. TITLE.**

These rules shall be cited as IDAPA 07.05.01, "Rules of the Public Contractors License Board". ( )

**002. INTENT.**

The Board believes the legislature in providing the License Act and subsequent amendments thereto, intended to afford some protection to officials of units of government at all levels in their dealing with persons, firms or corporations engaging in the construction, reconstruction or repair of Public Works. The licensing of a person, firm or corporation as a "Public Works Contractor" ~~shall give~~ is intended to provide the investing public body some assurance of the contractor's reputation, ability, qualifications, experience and financial responsibility. ~~(7-1-93)~~ ( )

**003. WRITTEN INTERPRETATIONS.**

This agency has no written interpretations of this chapter. ( )

**004. ADMINISTRATIVE APPEALS.**

The administrative procedures governing this chapter are outlined herein. ( )

**005. -- 009. (RESERVED).**

**00310. DEFINITIONS.**

As used in these rules. (7-1-93)

**01. Administrator.** Refers to the administrator of the Division of Building Safety. ( )

~~012.~~ **Applicant.** Shall mean any person who has filed an application with the ~~Board~~ administrator. ~~(7-1-93)~~ ( )

~~02. Licensee.~~ Shall mean any individual proprietor, copartnership, limited liability partnership, limited liability company, corporation, joint venture or other business organization who holds a current, unrevoked license. ~~(3-19-99)~~

**03. Board.** Refers to the Public Works Contractors License Board which is created within the Idaho Division of Building Safety as set forth in Title 54, Chapter 19, Idaho Code. ( )

**04. Compiled.** Refers to a type of financial statement in which the information presented is based solely upon representations by an organization's management. ( )

**05. Financial Statement.** A balance sheet and income statement prepared in accordance with generally accepted accounting principles. ( )

**06. Incidental Work.** Shall mean work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount. ( )

**07. Independent Audit Report.** A report prepared by an independent certified public accountant presenting such auditor's opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards. ( )

**08. Licensee.** Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license. ( )

~~039.~~ **Petitioner.** Shall mean: (7-1-93)

a. Any licensee who has filed with the Board a written request for the change or addition to the types of construction for which he is licensed; (7-1-93)

b. Any applicant or licensee requesting a rehearing in any proceeding or appealing from the final

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### **DIVISION OF BUILDING SAFETY Public Works Contractors License Board**

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decision or order of the administrator or the board; (7-1-93)( )

c. Any interested person requesting the promulgation, amendment or repeal of a rule, or; (7-1-93)

d. Any interested person requesting a declaratory ruling on the applicability of the License Act or of any rule or order of the Board. (7-1-93)

~~04. Staff. Shall mean Executive Director or other members of the staff as appropriate who may appear and participate in any proceedings before the Board.~~ (3-19-99)

~~05. Hearing Officer. Shall mean that person designated by the Chairman of the Board to conduct or assist in any proceeding before the Board.~~ (7-1-93)

~~06. Legal Counsel. For the Board shall be as designated by the Board.~~ (3-19-99)

~~07. Supplier. Persons who only supply goods or equipment to a construction project and do not perform any other construction contracting duties. Suppliers shall be exempt from licensure.~~ (3-19-99)

~~08. Executive Director. Shall refer to and shall mean the same as the Registrar.~~ (3-19-99)

**10. Reviewed.** Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization's management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles. ( )

~~00411.~~ -- 099. (RESERVED).

### **100. PLACE OF BUSINESS BOARD OFFICE -- LOCATION, HOURS, MAILING ADDRESS, TELEPHONE NUMBER, FACSIMILE NUMBER.**

The ~~principal place of business~~ address of the ~~B~~board shall be office, and its mailing address, is 355 N. Orchard, Suite 107, PO Box 83720, Statehouse Mail, Boise, ID 83720-0073, 1090 E. Watertower Street, Meridian, Idaho 83642. Office hours are from 8 a.m. until 5 p.m., daily. The office is closed on weekends and holidays. The board telephone number is (208) 327-7326 334-4057, fax and the facsimile number is (208) 327-7377 855-9666. office hours 8:00 a.m. to 5:00 p.m. (3-19-99)( )

### **101. MEETINGS.**

~~Notice of regular and special meetings. The Executive Director shall give due notice of any regular or special meeting to each member of the Board~~ Meetings of the board are subject to the Idaho Open Meeting Law, Title 67, Chapter 23, Idaho Code. (3-19-99)( )

### **102. COMMUNICATION.**

All written communications, forms and documents concerning any matter covered by the Act or these rules shall be addressed to the ~~Executive Director of the Board~~ ( administrator and not to members of the ~~B~~board or staff). All communications are deemed officially received only when delivered to the principal board office ~~of the Board~~. Documents may be submitted by facsimile but not by other electronic or computerized means. (3-19-99)( )

### **103. PETITIONS.**

~~Petitions may be filed by application.~~ An applicant or licensee seeking an rehearing of the decision and order or decision of the administrator or the Bboard on any application or other matter, or in any disciplinary proceeding, must file a written petition. (3-19-99)( )

### **104. FORM AND CONTENT OF PETITION.**

**01. Form.** The ~~form~~ petition, including the heading, the name of the petitioner or person making the request, and the purpose of the petition shall be in substantially the manner prescribed in these rules following form: (3-19-99)( )

~~02a.~~ Paragraph 1-~~S~~ shall state the petitioner's interest in the matter name, address, and license number.

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(3-19-99)( )

~~03b.~~ Paragraph 2-~~S~~ shall state the petitioner's request in brief, precise and specific terms, including references to any pertinent statutes or rules, and shall provide a detailed explanation of the purpose for the request.

(3-19-99)( )

~~04c.~~ Paragraph 3-~~S~~ shall contain the statements of fact to support the petitioner's request. Briefs and supporting documents may accompany petitions.

(3-19-99)( )

~~052.~~ **Dated And Signed.** The petition shall be dated and signed by the petitioner. (3-19-99)

~~063.~~ **Filed.** The petition shall be filed ~~with the Board. The Board shall acknowledge the petition by First Class Mail with the notice of hearing or the decision of the Board in the matter~~ as set forth in Section 102.

(3-19-99)( )

#### ~~105. REVIEW.~~

~~Petitions will be reviewed, heard and decided at regular monthly meetings of the Board.~~

(3-19-99)

#### ~~1065. SPECIAL PROVISIONS GOVERNING LICENSE RENEWAL - FILING DEADLINES; PETITIONS FOR EXTENSION OF TIME TO FILE; LAPSED LICENSES.~~

~~01.~~ **Filing Deadline.** Applications for renewal of a license shall be filed by the last working day of the month in which the license expires. ( )

~~042.~~ **Filing Deadline Extension Of Time.** A ~~written~~ petition for an extension of time in which to renew shall be filed by the last working day of the month in which the license expires. The petition shall ~~state briefly and concisely the reason(s) for the extension of time~~ be accompanied by the required fees. Petitions not accompanied by the required fees or filed after the license has expired will not be honored. ( )

i. The petition shall ~~request an extension be granted for a specified~~ specify the number of days for which the extension is being requested. ( )

ii. ~~not to~~ Under no circumstances shall an extension exceed sixty (60) days. Petitions for more than sixty (60) days will not be honored. (3-19-99)( )

~~02.~~ **Accompaniments.** ~~The petition shall be accompanied by the proper license fees and filed with the Board not later than the last day of the licensing period. A petition filed without the fees or filed after the license has expired will not be honored.~~ (3-19-99)

~~03.~~ **Approval Of Petition.** Approval of a petition for an extension of time shall authorize operation as a contractor until actual issuance of such renewal license for the ensuing licensing period, provided the application for renewal is filed with the Board within the extended time specified. (3-19-99)

~~04.~~ **Failure To File.** ~~Should if~~ If the licensee fails to file ~~his~~ a timely application for renewal ~~on or before the last day of the extended time specified in the notice or petition for extension,~~ his the license shall lapse and expire ~~on that the last day of the license period.~~ Licenses not renewed in a timely manner shall be considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. Licenses delinquent for more than a period of one (1) year must be reinstated and the applicant for reinstatement must apply as if for a new license. (3-19-99)( )

#### ~~1076. SPECIAL PROVISIONS COVERED IN A PETITION TO CHANGE OR ADD TYPES OF CONSTRUCTION.~~

~~The~~ A petition to change or add types of construction shall be supported by evidence, ~~or~~ satisfactory to the administrator, of work history, job performance, experience, equipment, ~~and~~ financial responsibility, ~~as deemed necessary in the circumstances~~ and a minimum of three (3) letters of reference. The evidence of work history, job performance, experience, and financial responsibility shall comply with the requirements of Subsections 110.01 and 110.02 of these rules. All of the evidence shall specifically pertain to work that is similar in scope and value to that for which the change or addition is being requested. (3-19-99)( )

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### **DIVISION OF BUILDING SAFETY Public Works Contractors License Board**

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#### **1087. RECORDS.**

*The Board shall maintain in its offices in Boise, Idaho, an indexed record of all applications, licenses issued, licenses renewed and all revocations, cancellations, and suspensions of licenses records are subject to the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code.* (3-19-99)(\_\_\_\_)

#### **~~109. COPIES.~~**

*The Board shall furnish a certified copy of any license issued upon receipt of the sum of fifty cents (\$.50).* (3-19-99)

#### **~~110. DIRECTORY LISTS.~~**

*The Board shall publish a directory of the names and addresses of contractors licensed pursuant to Title 54, Chapter 19, Idaho Code.* (3-19-99)

**01. ~~Furnish Lists.~~** *The Board may furnish lists to such public works and building departments, public officials or public bodies, architects and professional engineers, and other persons interested in or allied with the building and construction industry in this or any other state as deemed advisable, and at such intervals as deemed necessary, whenever funds therefor are available.* (3-19-99)

**02. ~~Request For Copies.~~** *Copies of the list may be furnished by the Board upon request to any firm or individual upon payment of a reasonable fee fixed by the Board.* (3-19-99)

#### **~~111. POCKET CARDS.~~**

*The Board may issue pocket cards to licensees that may serve as satisfactory evidence of the possession of a license and current renewal.* (3-19-99)

#### **~~112. STATEMENT FOR PUBLIC WORKS PROJECTS.~~**

*The Board shall promote and encourage the publication of a statement regarding licensing requirements in the advertised specifications for public works projects.* (3-19-99)

#### **~~113. POSTED NOTICES.~~**

*The Board shall promote and encourage the posting of notices regarding licensing requirements in conspicuous places in public offices and buildings.* (3-19-99)

#### **~~114. PUBLICATION.~~**

*The Board shall, upon request and periodically, as needed, publish and distribute statements and placards regarding licensing requirements to public officials, architects, engineers and other interested persons.* (3-19-99)

#### **~~115. BID PROPOSALS.~~**

*The Board shall promote and encourage the use of provisions requiring the posting of license certificate numbers on bid proposal forms for public works projects.* (3-19-99)

#### **~~116. NAMING SUBCONTRACTORS.~~**

*The Board shall promote and encourage the use of provisions requiring the posting of license certificate numbers in those instances where subcontractors and specialty contractors are required to be named in the bid proposal form for public works projects.* (3-19-99)

#### **11708. REVIEW.**

*The Board may review the basis for a contested case at any regular or special meeting. Any final decision of the administrator or the board may be reviewed in accordance with the provisions of the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code.* (3-19-99)(\_\_\_\_)

#### **~~118. ANSWER.~~**

*An answer to a citation and complaint shall be filed within ten (10) days after the citation is served. Answers shall be reviewed at regular or special meetings of the Board.* (3-19-99)

#### **~~1109. NOTICE OF HEARING.~~**

*In any contested case where a hearing is set, due notice of the date, time and place shall be served on or other matter of board business, written notification, mailed to the licensee or the applicant or licensee by Certified Mail, and such*

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~~other interested persons, including complainants, by First Class Mail at the most current address on record with the board, shall constitute sufficient notification for all purposes within Title 54, Chapter 19, Idaho Code, and these rules.~~  
(3-19-99)( )

#### **1210. APPLICATION FOR LICENSURE - DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.**

~~The Board may, at its discretion, require that the financial reports furnished by the applicant be prepared by an accountant. All financial information submitted by an applicant shall be considered confidential and exempt from public inspection.~~  
(3-19-99)

**01. Application Documentation.** To obtain a license, the applicant shall submit to the administrator, on such forms as the administrator shall prescribe, accompanied by the required fee for the class of license applied for, a written, notarized application for such license. All of the information submitted by the applicant shall specifically pertain to work that is similar in scope and value to that for which licensure is being requested or which is being requested in a petition to change or add types of construction. The information contained in such application forms shall include: ( )

**a.** A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; ( )

**b.** A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; ( )

**c.** A general description of applicant's machinery and equipment; ( )

**d.** An annual financial statement, as herein defined, that was issued no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the board may prescribe by rule and which may include a letter from applicant's bonding company stating the amount of the applicant's bonding capability per project and in the aggregate; ( )

**e.** For class A, AA, and AAA license applications, financial statements shall be accompanied by an independent auditor's report or be reviewed. For class B license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For class C and D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator, and include such additional information as may be required by the administrator to determine the applicant's fitness for a license. ( )

**f.** The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee. ( )

**02. Application For Change In Licensing Class.** Requests for a licensing class higher than that for which the applicant qualifies shall be accompanied by the information in Subsections 110.01.a., 110.01.b., 110.01.d., and 110.01.e., and the applicable fee. Licenses granted under Subsection 110.02 shall be valid for a period of twelve (12) months from the date of issuance. ( )

**03. Extension Of Time To File Financial Statement.** The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application shall be filed prior to the first day of such renewal licensing period. In the event an extension is granted, the renewal license shall be valid for a period of twelve (12) months from the date of the issuance of the renewal license. ( )

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~~12104.~~ **Appraisals.** The Board administrator may, ~~in its discretion,~~ require ~~the~~ submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals shall be conducted by a disinterested person or firm established and qualified to perform such services. (3-19-99)( )

~~12205.~~ **References.** The Board administrator may, ~~in its discretion,~~ require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as ~~the Board may~~ deemed necessary and advisable in determining the applicant's qualifications. (3-19-99)( )

**06. Bonding.** Applicants may submit letters from a bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, together with supporting information. ( )

#### ~~12311.~~ **ORAL COMPLAINTS.**

~~An oral~~ Complaints alleging a violation of the License Act or these rules shall be ~~reduced to~~ in writing; and filed with the administrator as provided in these rules. All complaints must be verified; and ~~filed with~~ submitted on forms provided by the ~~Board in the form and manner provided in these rules.~~ (3-19-99)( )

#### ~~124.~~ **DETERMINING COVERAGE.**

~~The Board shall make its own determinations as to whether contractors, builders, subcontractors, specialty contractors, or material men are covered by Title 54, Chapter 14, Idaho Code, even though such determinations may differ from those of the owner, other interested persons or agencies. The Board may make its own determinations as to whether a specific type of work or project shall be regarded as "public works construction" within the meaning of the License Act, even though such determinations may differ from those of the owner, other interested persons or agencies.~~ (3-19-99)

~~12512.~~ -- 199. (RESERVED).

#### **200. CLASSES LIMITATIONS.**

~~01.~~ **Class.** ~~"Class" of any license shall be as designated and defined in Section 54-1904, Idaho Code as amended.~~ (7-1-93)

**021. Limit Of One License.** A licensee will be permitted to hold only one (1) class of license at any given time. (7-1-93)( )

~~03.~~ **Filing Upgrade Application.** ~~A licensee in one class who desires a license of another class shall prepare and file an upgrade application, current financial statement and pay the fee for such other class.~~ (3-19-99)

**042. Voiding Old Previous License Null And Void.** When a licensee of one class has been issued a license of another class, the previous license shall be null and void. (7-1-93)( )

**03. Total Bid Cost.** The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except class AAA, shall not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids shall include all bids of the subcontractors. Subcontractor bids shall not be considered a separate bid for the purposes of computing the bid on a given public works project. ( )

**04. Two Or More Licensees.** Two (2) or more licensees of the same class or of different classes shall not be permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee. ( )

**05. Type 4 License Holder.** The holder of a license for Type 4, Specialty Construction, shall be entitled to bid a public works project as a prime contractor or as a subcontractor, if more than fifty percent (50%) of the work to be performed by him on such project is covered by a category or categories listed on the license held by the licensee. ( )



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### **DIVISION OF BUILDING SAFETY Public Works Contractors License Board**

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#### **201. FEES.**

**01. Fees.** Fees for each class of public works contractor and construction manager license shall be as designated and defined in Sections 54-1904, and 54-4510, Idaho Code. (3-19-99)(\_\_\_\_)

**02. Payment Of Fees.** Fees shall be payable to "~~Treasurer, State of Idaho~~ Division of Building Safety - Public Works Contractors". (7-1-93)(\_\_\_\_)

**03. Application Filed With Fees.** Required ~~F~~ees shall accompany ~~the~~ all applications ~~for a license~~. An application filed without the ~~proper~~ required fees shall be deemed incomplete and returned to the applicant. (3-19-99)(\_\_\_\_)

~~**04. Nonrefundable Fees.** Fees accompanying original applications and fees accompanying renewal applications are for the administration and enforcement of the Act and shall not be refunded to the applicant pursuant to Sections 54-1911 and 54-1912, Idaho Code, respectively.~~ (3-19-99)

#### **054. Construction Manager Licensing Fees.** (3-19-99)

- a. The fee for initial examination and licensing shall be two hundred dollars (\$200). (3-19-99)
- b. The fee for license renewal shall be two hundred dollars (\$200). (3-19-99)
- c. The fee for an inactive license shall be fifty dollars (\$50). (3-19-99)
- d. The fee for license reinstatement shall be two hundred dollars (\$200). (3-19-99)
- e. The fee for administering the examination shall be the standard fee established for taking that examination. (3-19-99)
- f. The fee for issuing and for reinstating a certificate of authority shall be one hundred dollars (\$100). (3-19-99)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **203. ~~RIGHTS GRANTED UNDER LICENSES.~~**

~~**01. Rights.** Rights granted to licensees shall be as designated and defined in Section 54-1904, Idaho Code, and as provided in these rules.~~ (7-1-93)

~~**02. Estimated Cost.** The estimated cost and bid limit for each class of license shall be as defined in Section 54-1904, Idaho Code.~~ (7-1-93)

~~**03. Total Bid Cost.** The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class AAA, shall not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids shall include all bids of the subcontractors. Subcontractors bids shall not be considered a separate bid for the purposes of computing the bid on a given public works project.~~ (3-19-99)

~~**04. Two Or More Licensees.** Two (2) or more licensees of the same class or of different classes shall not be permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee.~~ (7-1-93)

#### **204. ~~TYPES OF CONSTRUCTION.~~**

~~The types of construction for which licenses are issued shall be as defined and designated in Section 54-1901, Idaho~~

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*Code, and as provided in these rules.*

(7-1-93)

**01. Public Works Construction.** A license of any class may be issued for one (1) or more types of public works construction. (7-1-93)

**02. Type 4.** A license for Type 4, Specialty Construction, shall list one (1) or more specialty categories to which the licensee is restricted. These categories include, but shall not be limited to, the following: Acoustical-Drywall, Air Conditioning & Warm-Air Heating, Blasting, Bridges & Structures, Building Cleaning & Maintenance, Chimney Repair, Clearing, Communications & Alarm Systems, Concrete, Craning & Erection, Crushing, Demolition, Drilling, Electrical (the application must include a State License Number), Elevators/Lifts/Hoists, Excavation & Grading, Fencing, Fire Sprinkler Systems (the application must include a State License Number), Flooring, Floor Coverings/Carpeting, Glass & Glazing, Hauling, Institutional Equipment, Insulation, Landscaping/Seeding/Mulching, Lath & Plaster, Masonry, Guard Rails & Safety Barriers, Millwork & Fixtures, Ornamental Metals, Painting & Decorating, Paving, Pesticide Spraying (the application must include a State License Number), Plumbing (the application must include a State License Number), Refrigeration, Roofing & Siding, Sand Blasting, Sheet Metal, Signing, Sprinklers/Irrigation Systems, Steel Fabrication/Erection/Installation, Tile/Terrazzo, Traffic Marking & Striping, Utilities, Waterproofing/Caulking, Well Drilling (the application must include a State License Number), Boiler, Hot Water Heating & Steam Fitting, Other. (3-19-99)

**03. Scope And Coverage.** The Board will determine the scope and coverage of each type and category based on what is commonly accepted and practiced by reasonable men engaged in the construction industry. (7-1-93)

**04. Type 4 License Holder.** The holder of a license for Type 4, Specialty Construction shall be entitled to bid a public works project as a prime contractor or as a subcontractor, if more than fifty percent (50%) of the work to be performed by him on such project is covered by a category or categories listed on the license held by the licensee. (7-1-93)

**05. Copies Of State Licenses.** The applicant must submit a copy of any license for any specialty issued by other state agencies. (3-19-99)

2053. -- 299. (RESERVED).

#### **300. FILING.**

Applicant may file an application form, financial statement and fee with the Board by mail or in person. (7-1-93)

#### **301. SCREENING NOTICE.**

The Executive Director and staff will receive and screen each application for completeness, clarity, etc. If an application is incomplete, notice of same will be mailed to the applicant by First Class Mail. The notice will specify the incomplete items to be completed. If necessary, the application form will be returned to the sender for completion. (3-19-99)

#### **302. (RESERVED).**

#### **303. REVIEW BY BOARD.**

At a regular meeting on the date scheduled, the application, other information, data, documents and references will be reviewed by the Board. If the application is approved, a License Certificate will be issued effective from the date of approval. (7-1-93)

#### **304. DENIED APPLICATIONS.**

If, after reviewing the application, other information, data, documents or references, the Board decides: (7-1-93)

**01. Incomplete Information.** The information before the Board is incomplete, inadequate or in conflict, and further action is required before a decision can be rendered. (7-1-93)

**02. Denial Of Application.** The information before the Board is such that it would appear proper to deny the application, notice of same will be mailed to the applicant, by certified mail. The notice will state the basis for the action of the Board and may suggest means by which the matter might be remedied, and shall provide the

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### DIVISION OF BUILDING SAFETY Public Works Contractors License Board

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~~applicant an opportunity to answer, to show cause, and shall set a date, time and place for a hearing in the matter.~~  
(7-1-93)

**305. ~~ANSWER AND APPEARANCE.~~**

~~The applicant shall have not less than five (5) nor more than thirty (30) days from the date the notice is served to file a written answer to show cause and to make a written and/or personal appearance before the Board at the scheduled hearing.~~  
(7-1-93)

**306. ~~HEARING - APPROVAL.~~**

~~At a regular meeting on the date set for the hearing, the Board will review the written answer to show cause and any additional information, data, documents or references furnished by the applicant or other interested persons, and the testimony of the applicant or other persons, if a personal appearance is made, and reconsider the application. If the Board approves the application, a License Certificate will be issued effective from the date the application is approved without further hearing on the matter.~~  
(7-1-93)

**307. ~~HEARING - DENIED APPLICATIONS.~~**

~~After reviewing the answer, any additional information, data, documents or references furnished by the applicant or other interested persons, and the testimony of the applicant or other persons, the Board may deny the application, and a decision to that effect will be served on the applicant by Certified Mail.~~  
(3-19-99)

**308. ~~FAILURE TO ANSWER OR APPEAR.~~**

~~If the applicant fails to file a written answer to show cause, or fails to make an appearance either in writing or in person at the scheduled hearing, after due notice of same has been served, the Board may take note of such failure to answer or appear and enter a decision denying the application without further hearing on the matter. The written decision of the Board will be served on the applicant by Certified Mail.~~  
(7-1-93)

**309. ~~ACCEPTANCE OF DECISION.~~**

~~In any notice, hearing or decision, the Board may, in its discretion, deem it proper to deny any application for any class and/or type(s) and approve the application for another class and/or type(s) and serve notice of same on the applicant. If the applicant accepts in writing such other class and/or type(s) the Executive Director shall issue a License Certificate effective on the date applicant's written acceptance is filed with the Board without further hearing or action in the matter by the Board.~~  
(3-19-99)

**310. ~~PETITION FOR REHEARING.~~**

~~A petition for rehearing may be filed by the applicant whose application has been denied within twenty (20) days from the date the decision of the Board denying the application is served on the applicant.~~  
(7-1-93)

**311. ~~REVIEW OF PETITION.~~**

~~A petition for rehearing will be reviewed at a regular meeting of the Board and treated in the manner specified in these rules for petitions.~~  
(7-1-93)

**312. ~~NOTICE OF REHEARING.~~**

~~If a petition for rehearing is approved, the Board shall set a date, time and place for the rehearing, notify the applicant by Certified Mail, and proceed in the manner specified in these rules for hearings.~~  
(7-1-93)

**313. -- 399. (RESERVED);**

**400. ~~APPLICATION FOR ORIGINAL LICENSE.~~**

~~An application for an Original license, together with the fees, financial statement, references and License Examination therefor, shall be filed with the Board prior to consideration thereof by the Board (Section 54-1911).~~  
(7-1-93)

**401. ~~APPLICATION FOR ANNUAL RENEWAL.~~**

~~An application for annual renewal of a current license together with the fees therefor shall be filed not later than the last day of the license period. Timely filing shall authorize operation as a contractor by the licensee until actual issuance of the renewal license for the ensuing year or until final decision of the Board is rendered in any proceeding. (Section 54-1912, Idaho Code).~~  
(7-1-93)

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**~~402. APPLICATION FOR RENEWAL OF A LAPSED OR EXPIRED LICENSE.~~**

~~An application for renewal of a lapsed or expired license, together with the fees therefor, shall be filed with the Board (Section 54-1912). For purposes of these rules, all licenses issued under the Act shall lapse and expire on the last day of the license period, and shall be considered a delinquent renewal for a one (1) year period. (7-1-93)~~

**~~403. — 499. (RESERVED).~~**

**~~500. LICENSE NON-TRANSFERABLE.~~**

~~The license certificate shall be non-transferable either to another person or to a successor business organization such as a copartnership, corporation, joint venture, or other combination thereof. (Sec. 54-1912, Idaho Code) (7-1-93)~~

**~~501300. CHANGED BUSINESS ORGANIZATION - CHANGES IN ORGANIZATION OR STRUCTURE - MEMBERS OF JOINT VENTURES - CHANGES FOR REASONS OTHER THAN DEATH.~~**

~~A licensee licensed public works contractor or construction manager who undergoes a change in business organization or structure (such as a change from an individual proprietor to a copartnership, corporation, limited liability partnership, limited liability company, joint venture, or other combination thereof), or where there is a change in ownership, must file an application for a new license on behalf of such successor organization or new owners within sixty (60) days after such change occurs. The Board administrator may authorize the continuous operation of the licensee as a contractor during the interim period until the application of the successor organization is reviewed; provided written notice of such change is filed with the Board within thirty (30) days after such change occurs. A change in ownership requires that an original application be filed. All members of Each participant in a joint venture must be licensed at the time of bidding. (3-19-99)~~

**~~502. SURVIVING PARTNER.~~**

~~A surviving member or members of a licensed COPARTNERSHIP by reason of death shall be entitled to continue in business under such license until the expiration date thereof, provided the APPLICATION FOR PERMISSION is made to the Board within thirty (30) days after the death of a member, and the application (for permission) is approved by the Board. (7-1-93)~~

**~~503. VOLUNTARY CHANGE IN COPARTNERSHIP.~~**

~~Where there is a Voluntary Change of individual partners in the surviving members of a licensed copartnership, limited liability company, or limited liability partnership, due to a reason other than the death of one (1) of the partners, the remaining or succeeding partner member or partners members shall be required to file an application for an original license. (7-1-93)( )~~

**~~504301. -- 5399. (RESERVED).~~**

**~~600. COMPLIANCE.~~**

~~Licensee shall comply with all the provisions of the Act and the rules and regulations promulgated thereunder. (7-1-93)~~

**~~601. SUBCONTRACT LIMIT.~~**

~~Licensee shall not subcontract in excess of eighty (80%) percent of the work under any contract to be performed by him as a public works contractor according to the contract prices therein set forth, unless otherwise provided in the specifications of such contract. (7-1-93)~~

**~~602. SPECIALTY SUBCONTRACTORS.~~**

~~Licensee shall not sublet any part of any contract for specialty construction to a specialty contractor who is not licensed in accordance with this Act. (7-1-93)~~

**~~603400. DISPLAY CERTIFICATES - DISPLAY AND POSSESSION.~~**

~~Licensee shall sign and display the license certificate issued to him in his main office or chief place of business; and (7-1-93)~~

**~~604. POSSESSION OF CERTIFICATE.~~**

~~Licensee shall furnish satisfactory evidence of the possession of a license certificate and the current renewal thereof upon the administrator's demand. (7-1-93)( )~~

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#### ~~605~~**401. LICENSE NUMBER ON BIDS.**

Licensee shall place his license number on any and all bids submitted or contracts entered into, for any public works projects in the state of Idaho. (7-1-93)

#### ~~606. FILE RENEWAL.~~

~~Licensee shall prepare and submit a timely application for license renewal. (7-1-93)~~

#### ~~607. (RESERVED).~~

#### ~~608~~**402. CHANGES IN LICENSE CERTIFICATE.**

When any change in the license certificate has been approved by the Board, a new license certificate shall be issued. (3-19-99)

#### ~~609. USE OF LICENSE BY ANOTHER.~~

~~Licensee shall not aid or abet an unlicensed person to evade the provisions of the Act, or knowingly combine or conspire with an unlicensed person, or allow his license to be used by an unlicensed person, or act as agent or partner or associate or otherwise, of an unlicensed person with intent to evade the provisions of the Act. (7-1-93)~~

#### ~~610. UNLICENSED CONTRACTORS.~~

~~Licensee shall not knowingly enter into a contract with a contractor while such contractor is not licensed. (7-1-93)~~

#### ~~611~~**403. -- 6499. (RESERVED).**

#### **7500. PROCEEDINGS FOR DISCIPLINARY ACTIONS.**

The procedure for ~~the handling of complaints filed pursuant to Section 54-1914, Idaho Code; disciplinary actions and for the proceedings for the suspension or revocation of a license~~ contested cases shall be as provided in IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," the Administrative Procedure Act, as found in Chapter 67, Title 52, Idaho Code, ~~and Sections 54-1915 through 54-1919, Idaho Code, as amended and as supplemented by~~ these rules. (3-19-99)(\_\_\_\_)

#### **7501. FORMS.**

The complaint, citation, answer, notice of hearing, decision and order of the ~~Board~~ administrator and other related documents shall be filed in the form and manner prescribed in these rules, in IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and the Administrative Procedure Act. (3-19-99)(\_\_\_\_)

#### **7502. TECHNICALITIES OF FORM.**

The ~~Board~~ administrator may, ~~in its discretion~~, during any hearing or proceeding waive any technicalities of form not deemed necessary in the circumstances. (7-1-93)(\_\_\_\_)

#### **7503. HEARINGS.**

The general procedure for hearings before the administrator and the Board shall be as prescribed in these rules and Title 67, Chapter 52, Idaho Code. (3-19-99)(\_\_\_\_)

#### ~~704. NOTICE, ANSWER, HEARING, DECISION AND ORDER.~~

~~The notice, answer, hearing, decision and order of the Board in proceedings concerning the impaired financial responsibility of a licensee pursuant to Section 54-1914A, Idaho Code, shall be in the form and manner as those provided in these rules. (7-1-93)~~

#### ~~705. -- 799. (RESERVED).~~

#### ~~800. HEARING PROCEDURE.~~

~~In order to expedite hearings and to assist persons appearing before the Public Works Contractors License Board, the Board has adopted the following general procedure: (3-19-99)~~

**01. Hearings.** Hearings before the Board are conducted in an informal and summary manner. (7-1-93)

**02. Counsel.** Interested persons appearing before the Board may be represented by counsel. (7-1-93)

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~~03.~~ **~~Notice.~~** *Reasonable notice of any hearing will be furnished to any interested persons.* (7-1-93)

**041.** **Notes.** Any interested persons may request, in writing, five (5) days before any scheduled hearing in a contested case that the oral proceedings thereof be taken in the form of stenographic notes to be transcribed at his own expense. (7-1-93)

**052.** **Stipulations.** If the parties can agree upon any facts, issues or questions to be presented to the Board, appropriate stipulations may be made. (7-1-93)

**063.** **Continuance.** In the event a hearing cannot be completed within the time allotted, the Board may, in its discretion, continue same to a subsequent meeting as it deems necessary for proper consideration of the purpose for the hearing. (7-1-93)

**074.** **Procedure.** The Board reserves the right to amend, modify or repeal all or any part of the above procedure or to dispense with any part thereof, at any hearing before the Board, as it may deem necessary in the circumstances. (7-1-93)

~~801~~**504. -- 8599. (RESERVED).**

#### ~~900.~~ **~~THE BOARD.~~**

*The Board may, in its discretion, upon the filing of a verified complaint, charging any person or firm with acting in the capacity of a Public Works Contractor without a license, or charging any public officer who has knowingly let a public contract to any person or firm who does not hold a license, as provided in Section 54-1920, Idaho Code, investigate and enter an oral and/or written protest with the interested parties. In any protest entered, the Board may:* (7-1-93)

~~01.~~ **~~Withdrawal.~~** *Seek the withdrawal of any bid made or offered by an unlicensed person;* (7-1-93)

~~02.~~ **~~Rejection.~~** *Seek the rejection of any bid made or offered by an unlicensed person;* (7-1-93)

~~03.~~ **~~Refusal.~~** *Seek the refusal of the payment of any estimate to an unlicensed person or firm;* (7-1-93)

~~04.~~ **~~Compliance.~~** *Seek immediate compliance with the Act by such unlicensed person or firm;* (7-1-93)

~~05.~~ **~~Restrain.~~** *Seek to restrain such unlicensed person or firm from acting as a Public Works Contractor without a license;* (7-1-93)

~~06.~~ **~~Prevention.~~** *Seek to prevent the award of a contract or to obtain the cancellation or revocation of any public contract that has been awarded to an unlicensed person or firm.* (7-1-93)

~~07.~~ **~~Other.~~** *Failing in this, the Board shall refer the complaint and any other related documents to the County Attorney in the County where the events are alleged to have occurred to be processed in the manner provided in Section 54-1920, Idaho Code.* (7-1-93)

#### **600. CONSTRUCTION MANAGER EXAMINATIONS.**

If the applicant fails an examination, the applicant may take the examination a second time. A grade of at least seventy-five percent (75%) shall be required to pass each section of the examination. If the applicant fails to score a passing grade, the applicant must pass all failed sections within one (1) year of the initial test date. If the applicant fails to achieve a passing grade in each individual section on the second examination, the applicant must wait one (1) full year before taking the examination again. The applicant must then take and pass all sections of the examination (receiving no credit for sections successfully completed during the previous year). (\_\_\_\_)

~~9601. -- 999.~~ **(RESERVED).**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 09 - IDAHO DEPARTMENT OF LABOR**

#### **09.01.30 - RULES OF THE BENEFITS BUREAU**

##### **DOCKET NO. 09-0130-0301**

##### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** These rules have been adopted by the agency and are now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective upon adjournment of the Legislature unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

IDAPA 09.01.30.550.03 was amended in the proposed rule to add a new method for benefit claimants to file weekly or biweekly reports. This amendment provided that, in addition to the current filing methods, reports may be filed electronically. No additional amendments have been made to the pending rule.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, pages 37 and 38.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Roger Holmes at 208/332-3570 ext. 3233.

DATED this 30th day of July, 2003.

Roger Holmes  
UI Benefits Bureau Chief  
Benefit Programs Bureau  
Idaho Department of Labor  
317 W. Main St., Boise, ID 83735  
208/332-3570 ext. 3233 / 208/334-6301 Fax

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### **IDAPA 09, TITLE 01, CHAPTER 30**

#### **RULES OF THE BENEFITS BUREAU**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 37 and 38.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 09 - IDAHO DEPARTMENT OF LABOR

#### 09.01.30 - RULES OF THE BENEFITS BUREAU

##### DOCKET NO. 09-0130-0301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** These temporary rules are effective April 28, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: IDAPA 09.01.30.550.03 would be amended to add a new method for benefit claimants to file weekly or biweekly reports. The rule would provide that, in addition to the current filing methods, reports may be filed electronically.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: With new technology available, the Department wishes to adopt additional, more convenient methods for unemployment insurance benefit claimants to use when filing their weekly or biweekly reports with the Department. These additional methods of filing will confer a benefit to unemployment insurance benefit claimants.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the agency determined it was not feasible due to the simple nature of the proposed rule.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Roger Holmes at 208/332-3570 ext. 3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 20th day of May, 2003.

Roger Holmes  
UI Benefits Bureau Chief  
Benefit Programs Bureau  
Idaho Department of Labor  
317 W. Main St.  
Boise, ID 83735  
208/332-3570 ext. 3233  
208/334-6301 Fax



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0130-0301

#### **550. REPORTING REQUIREMENTS.**

Each claimant shall report weekly or biweekly for benefits as directed. Failure to file timely reports shall result in ineligibility for benefits for the week(s) claimed. Ref. Sec. 72-1366(1), Idaho Code. (3-19-99)

**01. In-Person Reports.** A claimant reporting in person must hand the report to an authorized employee of the local office or place it in a receptacle identified for that purpose. The Department will not accept reports deposited under or through the doors of the office. Reports filed in person at a local office shall be considered timely when filed within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period shall be extended to include the following working day. (3-19-99)

**02. Mailed Reports.** Reports that are mailed shall be considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period shall be extended to include the following working day. (3-19-99)

**03. Telephone/Internet Reports.** Reports filed by telephone to the Idaho Tel A Claim system or via the internet must be made between 12:01 A.M. Mountain Time of the Sunday following the week being claimed and midnight Mountain Time of the Saturday following the week being claimed. ~~(3-19-99)~~(4-28-03)T

**04. When Report Missing.** If a claimant establishes, by credible and corroborated evidence, that a missing report was personally delivered to a local office or mailed within the filing period, a replacement report shall be considered timely. (3-19-99)

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 09 - IDAHO DEPARTMENT OF LABOR**

#### **09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU**

**DOCKET NO. 09-0135-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

There are no changes to the pending rule. The pending rule is being adopted as originally proposed. The original text of the proposed rule was published in the September 3, 2003, Idaho Administrative Bulletin, Volume 03-9, pages 88 through 91.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Mark Whitworth at 208/332-3570 ext. 3266.

DATED this 29th day of October, 2003.

Mark Whitworth  
Employer Accounts Bureau Chief  
Idaho Department of Labor  
317 W. Main Street, Boise, ID 83735  
208/332-3570 ext. 3266  
Fax: 208/334-6301

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### **IDAPA 09, TITLE 01, CHAPTER 35**

#### **RULES OF THE EMPLOYER ACCOUNTS BUREAU**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 88 through 91.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 09 - IDAHO DEPARTMENT OF LABOR

#### 09.01.35 - RULES OF THE EMPLOYER ACCOUNTS BUREAU

##### DOCKET NO. 09-0135-0301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency proposed rulemaking. The action is authorized pursuant to Section(s) 72-1333(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Elimination of Subsection 011.04 from this rule will remove the restriction against assessing penalty once a tax lien is filed, but while the tax is still delinquent. Penalty provisions are intended to encourage the prompt payment of delinquent taxes to prevent additional charges. Inability to assess penalties once a tax lien is filed negates this incentive and encourages delay in paying owed amounts.

Subsection 134.02 is being changed to eliminate the specific reference to a time period for notification of change for transfer of tax rate. The Department anticipates changing the statutory time frame found in Idaho Code 72-1351(4) for requests of rate transfer to allow more time for employers to make this request. Changing the rule to refer to the statute for the allowed time frame will permit the rule to conform with the statute as it currently appears and immediately upon change.

U.S. Department of Labor has noticed a trend called "SUTA dumping" in which employers with high UI tax rates due to high employee turnover, lower their rate by transferring their employees from one legal entity to another with a low tax rate. This results in an unfair lowered tax rate being given to employers who continue to have high employee turnover but maintain the lower tax rate by cycling through business entities as the rate rises. This cycling through entities with low tax rates while continuing to operate in a manner that causes deficit payments for these employers causes an excessive drain on the UI trust fund and higher rates for all covered employers. Subsection 221.01 is being changed to require a mandatory transfer of rate for employers when there is a continuity of ownership or management between the predecessor and successor.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is being amended to clarify penalty provisions in an existing rule, in response to anticipated legislative changes, and in response to Federal recommendations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Mark Whitworth at 208/332-3570 ext. 3266.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 30th day of July, 2003.

Mark Whitworth  
Employer Accounts Bureau Chief  
Idaho Department of Labor  
317 W. Main Street, Boise, ID 83735  
208/332-3570 ext. 3266 / Fax: 208/334-6301

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 09-0135-0301

#### 011. GENERAL PROVISIONS.

The following Rules for Employer Contributions are adopted pursuant to Section 72-1333(2), Idaho Code. (3-19-99)

**01. Quarterly Reporting.** Subject employers shall report all wages paid for services in covered employment each calendar quarter. Ref. Sec. 72-1337, Idaho Code. (3-19-99)

**02. Contribution Due Date.** Contributions are due on or before the last day of the month following the calendar quarter except if the last day of the month falls on a weekend or holiday, in which case the next workday is the due date. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

**03. Penalties And Interest On Bankruptcy.** Penalty and/or interest shall not be assessed on amounts covered in the Department's Proof of Claim with the Bankruptcy Court for the period after the filing date of the Bankruptcy Petition and ending with the conclusion of bankruptcy proceedings and distribution of assets. Post petition penalty and interest shall be compromised, provided the amount due is paid in full by a date established after the termination of the bankruptcy proceedings. Ref. Sec. 72-1356, Idaho Code. (3-19-99)

~~**04. Late Penalty.** Penalty shall be calculated on the unpaid balance for any amount not secured by a lien. Ref. Sec. 72-1354, Idaho Code. (3-19-99)~~

**054. Lien Interest.** Lien interest on a delinquent account shall be assessed against the remaining unpaid balance computed from the day following the recording of a tax lien, at a rate established by law. (See Section 056). Ref. Sec. 72-1360, Idaho Code. (3-19-99)

**065. Penalty And Interest During Controversy.** Penalty and/or interest shall be compromised for periods when a valid controversy exists if amounts determined to be due are paid in full by a date established at the conclusion of the issue. Ref. Sec. 72-1354 and 72-1360, Idaho Code. (3-19-99)

**076. Confidential Information.** Information obtained from an employer shall be held as confidential and shall not be released without the consent of the employer except as provided in IDAPA 09.01.08, "Rules on Disclosure of Information," Section 011 or when disclosure is necessary for collection of any amount due under the employment security law, or as otherwise provided by law or these rules. Ref. Sec. 9-340 and 72-1342, Idaho Code. (3-19-99)

**087. Filing Of An Employer Appeal.** (3-30-01)

**a.** An appeal shall be in writing, signed by an interested party or representative, and shall contain words that, by fair interpretation, request the appeal process for a specific determination or redetermination of the Department. The appeal may be filed by delivering it, or faxing it, to any Job Service office or to the Employer Accounts Bureau of the Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. The date of personal delivery shall be noted on the appeal and shall be deemed the date of filing. A faxed appeal that is received by a Job Service office or the Employer Accounts Bureau by 5 p.m. (as of the time zone of the office receiving the appeal) on a business day shall be deemed filed on that date. A faxed appeal that is received by a Job Service office or the Employer Accounts Bureau on a weekend or holiday or after 5 p.m. on a business day shall be deemed filed on the next business day. An appeal may also be filed by mailing it to any Job Service office or to the Employer Accounts Bureau, Idaho Department of Labor, 317 W. Main Street, Boise, Idaho 83735. If mailed, the appeal shall be deemed to be filed on the date of mailing as determined by the postmark on the request. Ref. Sec. 72-1361, Idaho Code. (3-30-01)

**b.** An appeal should be accompanied by a specific statement, information or evidence which provides an explanation as to why the original determination is erroneous. (3-30-01)

**c.** In cases where a determination of amounts due is made by the Department pursuant to Section 72-1358, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

(i) the employer files reports for the periods covered by the determination before the determination becomes final, and (ii) the Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. (3-30-01)

**098. Determinations.** Determinations shall be in writing, signed by an authorized representative of the director, and shall contain provisions which advise the interested parties of their right to appeal the determination within fourteen (14) days from the date of mailing of the determination in accordance with Section 72-1361, Idaho Code. (3-30-01)

**409. Determination Of Payment Date.** Each amount shall be deemed to have been paid on the date that the Department receives payment thereof in cash or by check or other order for the payment of money honored by the drawer on presentment; provided, that if sent through the mail, it shall be deemed to have been paid as of the date mailed as determined by the postmark on the envelope containing same, or the date of the check in lieu of a postmark. Provided further, that in the case of payments received by means of garnishment, execution, or levy, the amount received shall be deemed to have been paid as of the date that the order of garnishment, execution, or levy is served. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

**140. Release Of Lien Upon Payment In Full.** An amount secured by a lien shall be deemed to be satisfied when payment in full is received by the Department in the form of cash, money order, or other certified funds, or proof presented that a check or other negotiable instrument has been honored by its drawer upon presentment. Ref. Sec. 45-1908, Idaho Code. (3-19-99)

**121. Contribution Reports.** Each contribution shall be accompanied by an employer's contribution report in a form or medium prescribed and furnished or approved for such purpose, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed or furnished by the covered employer or, on his behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Sec. 72-1349, Idaho Code. (3-19-99)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **134. PROFESSIONAL EMPLOYER ORGANIZATIONS.**

A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. (3-15-02)

**01. Methods Of Reporting.** To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: (3-15-02)

**a.** Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or (3-15-02)

**b.** Report the workers included in the professional employer arrangement under the account number of the professional employer without transferring the experience rate of the client to the professional employer; or (3-15-02)

**c.** Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

**02. Joint Transfer Of Experience Rate.** In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within ~~ninety (90) days~~ the same timeframes as required of employers by Section 72-1351(4), Idaho Code, from the date of the agreement entered into between the

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professional employer organization and the client. Ref. Sec. 72-1351(4), Idaho Code.

~~(3-15-02)~~(\_\_\_\_)

**03. Partial Transfers Of Experience Rate Prohibited.** In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

**04. Mandatory Transfer Of Experience Rate.** If the professional employer organization elects to report the workers assigned to the client under the experience rate of the professional employer, and the client employer has a deficit experience rate, the experience rate transfer shall be mandatory. Ref. Sec. 72-1351, and 72-1349B, Idaho Code. (3-15-02)

**05. Partial Reporting Of Workers.** If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Sec. 72-1349B, Idaho Code. (3-15-02)

**06. Combined Wages Or Services For Purposes Of Coverage.** If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. (3-15-02)

### (BREAK IN CONTINUITY OF SECTIONS)

#### 221. TRANSFER OF EXPERIENCE RATING.

Upon request, employers shall be informed of the requirements for transferring an experience rating record. A status determination shall be issued to interested parties when an experience rating record transfer request is made. Ref. Sec. 72-1351, Idaho Code. (3-15-02)

**01. Mandatory Transfer Of ~~Deficit~~ Rate.** An experience rating record transfer shall be mandatory if: ~~There is a continuity of ownership or management between the predecessor and successor and the predecessor covered employer had a deficit experience rating record as of the last computation date.~~ The parties in interest shall be notified of such transfer of ~~deficit~~ experience as determined from the facts applicable to the case. Such determination may be appealed as provided in Ref. Sec. 72-1351, 72-1361, Idaho Code. ~~(3-19-99)~~(\_\_\_\_)

**02. Continued Predecessor Employment For Liquidation.** When a total transfer of experience rating record has been completed and it is found that the predecessor employer continues to have employment in connection with the liquidation of his business, such employer shall continue to pay contributions at the assigned rate for the period of liquidation but not to extend beyond the balance of the rate year. Ref. Sec. 72-1351, Idaho Code. (3-19-99)

**03. Management Or Ownership Unchanged.** For the purposes of Sections 72-1351(4)(a) and (b), Idaho Code, management and/or ownership shall be considered substantially the same if at least fifty percent (50%) of the business enterprise of the successor is owned or controlled by individuals who, immediately preceding the change in the legal entity, owned or controlled fifty percent (50%) or more of the enterprise. Ref. Sec. 72-1351, Idaho Code. (3-15-02)

**04. Wage Paid By Predecessor.** The successor employer may use wages paid by the predecessor employer to arrive at the wage base for purposes of calculating taxable wages only when the experience rate of a predecessor employer has been transferred to a successor employer. Ref. Sec. 72-1349(1), 72-1351(4), and 72-1350(8), Idaho Code. (3-15-02)

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

#### **10.01.01 - RULES OF PROCEDURE**

##### **DOCKET NO. 10-0101-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume No. 03-8, pages 31 through 35.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact David L. Curtis at (208) 334-3860.

DATED this 29th day of September, 2003.

David L. Curtis, Executive Director  
Board of Registration of Professional Engineers and Professional Land Surveyors  
600 S. Orchard, Suite A  
Boise, Idaho 83705-1242  
Telephone (208) 334-3860  
Fax (208) 334-2008

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#### **IDAPA 10, TITLE 01, CHAPTER 01**

##### **RULES OF PROCEDURE**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 31 through 35.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

#### **10.01.01 - RULES OF PROCEDURE**

##### **DOCKET NO. 10-0101-0301**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1208, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 27, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rules amendments would clarify that technology programs and related science programs are not the same as engineering programs and would state what courses a technology or related science graduate would need to complete in order to be the equivalent of an engineering graduate. The proposed rule amendments would preclude a failing candidate from reviewing the examination but would allow them access to a diagnostic analysis of their performance if it is available to the Board. The proposed rule amendments would clarify that the Board will proctor an examination for a candidate from another jurisdiction if that candidate would qualify for assignment to the exam in Idaho. The proposed rule amendments would recognize the equivalency of education for a graduate of a program recognized in the Washington Accord, or by ABET as being substantially equivalent. The proposed rule amendments would clarify that comity applicants who have not completed an approved engineering program must complete specific courses in order to be considered equivalent of an engineering graduate.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are primarily housekeeping in nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2003.

DATED this 18th day of June, 2003.

David L. Curtis, P.E.  
Executive Director  
Board of Registration of Professional Engineers and Professional Land Surveyors  
600 S. Orchard, Suite A  
Boise, Idaho 83705-1242  
Telephone (208) 334-3860  
Fax (208) 334-2008



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0101-0301

#### 017. EXAMINATIONS.

**01. Semiannually Or Annually; Special Or Oral Examination.** Examinations for professional engineer, professional land surveyor, engineer-in-training and land surveyor-in-training will be held annually or semi-annually, the exact time and place to be determined by the Board. Special oral or written examinations during the year may be given by the Board. (7-1-93)

**02. Eligibility For Examinations; Educational Requirements.** The application for registration for professional engineer, professional land surveyor or certification of engineer-in-training or land surveyor-in-training, together with the written examination, shall be considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before admittance to any examination. (7-1-93)

a. In regard to educational requirements, the Board will consider as unconditionally approved only those engineering ~~curricula programs~~ which are accredited by the Engineering Accreditation Commission (EAC) of the Accreditation Board for Engineering and Technology (ABET). Non-EAC/ABET accredited engineering ~~curricula programs and engineering technology programs~~ will be considered by the Board on their specific merits, ~~but are not considered equal to engineering programs accredited by EAC/ABET.~~ The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. ~~An approved four-year Bachelor of Technology (B.T.) engineering curriculum is not considered equal to an approved Bachelor of Science engineering curriculum. The Board will require additional experience for applicants with B.T. degrees.~~ (7-1-93)(\_\_\_\_)

b. An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a ~~major~~ related science degree program other than engineering must have completed a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for assignment to the examination for certification as an Engineer-in-Training or as required by Section 54-1212(1)(b), Idaho Code, for assignment to the examination for licensure as a professional engineer. (5-3-03)(\_\_\_\_)

i. Standard, regularly scheduled courses from accredited university programs, (on campus, correspondence, video, etc.) are normally acceptable without further justification other than transcript listing. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to insure that the above requirements are met. (7-1-93)

ii. Graduate level engineering courses, i.e. courses which are available only to graduate students, are normally not acceptable since the Board believes graduate engineering courses may not provide the proper fundamental foundation to meet the broad requirements of professional engineering. (7-1-93)

c. In addition to the minimum requirements set forth in Section 54-1212, Idaho Code, a person who desires to be qualified by examination in the field of structural engineering shall meet the following requirements: (4-22-94)

i. Be a registered professional engineer in Idaho. (7-1-93)

ii. Have two (2) years of work experience in the field of structural engineering after being registered as a professional engineer. The Principles and Practice of Engineering examination for Structural Engineering will

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

cover the practice of structural engineering to test the applicant's fitness to assume responsibility for engineering work affecting the public health, safety and welfare. The examination shall be sixteen (16) hours. (7-1-93)

**d.** The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has received a master's degree from an U.S. institution which has a bachelor degree program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology in the discipline of the applicant's master's degree, and, in addition, has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-5-00)

**03. Notification To Applicant By Board.** Notification of assignment or non-assignment to the examination will be furnished to the applicant at least thirty (30) days prior to the date of the examination. (4-5-00)

**04. Notification To Board By Applicant.** The applicant shall, at least fifteen (15) days before an examination, notify the Executive Director of the Board whether or not he will appear for the examination. Examinations will be given only to those who have so notified the Board. (4-5-00)

**05. Excused Non-Attendance At Exam.** In the event that an applicant cannot attend an examination, he shall immediately notify the Board to that effect and shall state the reason for non-attendance. Normally, no more than one (1) valid excuse and reassignment shall be granted to an applicant. If an applicant fails to appear for two (2) administrations of an examination their application may be terminated and they may be required to submit a new application and pay a new application fee in order to be reconsidered. (3-30-01)

**06. Two Examinations For Engineering Registration.** The complete examining procedure for registration as a professional engineer consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer-in-training certification, and the second is the Principles and Practice of Engineering for professional engineer registration. Each examination shall be eight (8) hours in length. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering curriculum. A certificate as an Engineer-in-Training will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by experience. (4-22-94)

**07. Fundamentals Of Engineering.** The Fundamentals of Engineering examination will cover such subjects as are ordinarily given in engineering college curricula and which are common to all fields of practice. The examination may also cover subject matters that are specific to the engineering discipline of the applicants education. (4-5-00)

**08. Principles And Practice of Engineering - Disciplines.** The Principles and Practice of Engineering examination will cover the practice of engineering to test the applicant's fitness to assume responsibility for engineering works affecting the public health, safety and welfare. Separate examinations will be given to test the applicant's fitness in any discipline for which there is an examination which, in the opinion of the Board, meets the requirements of duration and difficulty necessary to adequately test the applicant's fitness to practice in that particular discipline. The Board may use examinations prepared by the National Council of Examiners for Engineering and Surveying (NCEES) or it may prepare or commission the preparation of examinations in disciplines other than those for which examinations may be available from NCEES. (4-22-94)

**09. Two Examinations For Land Surveying Registration.** The complete examining procedure for registration as a professional land surveyor consists of two (2) separate written examinations. The first is the Fundamentals of Land Surveying examination for land surveyors-in-training certification, and the second is the Principles and Practice of Land Surveying registration. Each examination will be a total of eight (8) hours in length. Having passed the Fundamentals of Land Surveying examination, applicants will be required to take the Principles and Practice of Land Surveying examination at a later date when qualified by experience. The examination shall cover the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments.

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### BOARD OF PROFESSIONAL ENGINEERS AND LAND SURVEYORS Rules of Procedure

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Docket No. 10-0101-0301  
Proposed Rulemaking

The Principles and Practice of Land Surveying examination may consist of separate modules, each of which must be passed. (4-5-00)

**10. Oral Or Unassembled Examinations.** An oral examination or unassembled written examination, in addition to the prescribed written examination, may be required for professional engineer and professional land surveyor applicants. (7-1-93)

**11. Special Examinations.** A special examination, written or oral or both, may be required in certain instances where the applicant is seeking registration through comity with another state or political entity having required written examinations that are not wholly comparable in length, nature or scope. This examination supplements the certified qualifying record of the applicant and establishes a more common basis for judging the application and awarding a certificate of qualification or registration in this state. The length of these special examinations shall be determined by the Board, but shall in no case exceed the lengths specified for the regular examination. Special examinations may be given at any date and need not conform with regular examination dates. (7-1-93)

**12. Grading.** Each land surveyor-in-training, engineer-in-training and professional engineer applicant must normally attain a scaled score of seventy (70) or above on the entire eight (8) hour examination before being awarded certification or registration. Examinees on the Principles and Practice of Land Surveying examination must normally attain a scaled score of seventy (70) or above on each section of the examination. (4-5-00)

**13. Use Of NCEES Examinations.** Examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) for professional engineer, engineers-in-training, professional land surveyors, and land surveyors-in-training may be used by the Board. The examination for the field of structural engineering shall be the sixteen (16) hour examination as determined by the Board. (7-1-93)

**14. Review Of Examination By Examinee.** (3-15-02)

~~a. Due to security concerns about the examinations, Examinees who fail an examination which includes any "free-response" or "essay" type problems shall not be allowed to review only the "free-response" or "essay" type problems on their examination. Examinees who fail an examination will only be allowed to review those questions attempted during the examinee's last taking of the examination. Examinees shall be allowed a review time equal to one-half (1/2) the time originally allowed to take the "free-response or "essay" portion of the examination. The review shall be monitored by a Board member or Board representative. Paper will be provided by the Board and may not be taken away from the review site. A hand-held calculator not having word processing capabilities and not having a "QWERTY" keyboard may be used by the applicant during the review. Examinees in the Principles and Practice of Engineering examination may submit a rescoring request on the "free-response" or "essay" type problems attempted. Examinees who submit a rescoring request may use their own reference materials to complete the rescoring request.~~ (3-15-02)

~~b. Examinees who fail an examination which consists partly of "free-response" or "essay" and partly of other type problems shall be provided a diagnostic analysis of their performance on the non "free-response" or non "essay" problems, but they will not be allowed to review the non "free-response" or non "essay" type problems attempted in the examination if such an analysis is available to the Board.~~ (3-15-02)( )

~~c. Examinees who fail an examination which does not contain "free-response" or "essay" type problems shall be provided a diagnostic analysis of their performance, but they will not be allowed to review the actual problems attempted in the examination.~~ (3-15-02)

**15. Disposal Of Used Examination Pamphlets And Answer Sheets.** The Executive Director of the Board is authorized by the Board to dispose of used examination solution pamphlets and answer sheets after the first anniversary date after the examination was given. (3-30-01)

**16. Proctoring Of Examinations.** The Board will proctor an examination for another jurisdiction if the candidate would qualify under Title 54, Chapter 12, Idaho Code and these rules for assignment to the examination being proctored. ( )

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **019. REGISTRANTS OR CERTIFICATE HOLDERS OF OTHER STATES AND BOARDS.**

**01. Interstate Registration Evaluation.** Each application for Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, territories or foreign countries, shall be considered by the Board on its merits, and the application evaluated for substantial compliance with respect to the requirements of the Idaho law. Graduates of programs accredited by organizations signatory to the "Washington Accord" and graduates from programs evaluated by ABET as being substantially equivalent to EAC/ABET programs shall be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. Individuals who have passed examinations considered by the Board to be of comparable difficulty and duration as those utilized by the Board shall be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor. (4-5-00)( )

**a.** The Board may require an independent evaluation of the engineering education of an applicant who was educated outside the United States. Such evaluation shall be done through an organization approved by the Board and shall be done at the expense of the applicant. Such evaluation shall not be required if the applicant has been licensed in another jurisdiction of the United States for an minimum of ten (10) years and has not had any disciplinary action against them and there is not pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee shall be forfeited. (4-5-00)

**b.** An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a ~~major~~ related science degree program other than engineering must have completed a minimum of fifteen (15) semester credits of Engineering Science at a Sophomore and Junior level, six (6) semester credits of Engineering Design related courses at a Senior level, twelve (12) semester credits of Advanced Mathematics including Calculus and Differential Equations, and twelve (12) semester credits of basic science courses including Chemistry, calculus-based Physics and other appropriate basic science courses before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code. (3-15-02)( )

**02. Denials Or Special Examinations.** An application from a registrant of another state, territory or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. If the applicant is assigned to examination no additional fee shall be required. (7-1-93)

**03. Business Entity Requirements.** No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying or both in one (1) or more states, territories or foreign countries shall be considered by the Board unless such application includes the name and address of the individual or individuals, duly registered to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity in Idaho. The said individual or individuals must certify or indicate to the Board their willingness to assume responsible charge. (3-15-02)

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

#### **10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY**

**DOCKET NO. 10-0102-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1208, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted in order to require registrants to communicate with their clients and be candid with them. The pending rule differs from the proposed rule in that it is less prescriptive as to the considerations which might require candor on the part of the registrant.

The pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the August 6, 2003 Idaho Administrative Bulletin, Volume No. 03-8, pages 36 and 37.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact David L. Curtis at (208) 334-3860.

DATED this 29th day of September, 2003.

David L. Curtis, Executive Director  
Board of Registration of Professional Engineers and Professional Land Surveyors  
600 S. Orchard, Suite A  
Boise, Idaho 83705-1242  
Telephone (208) 334-3860  
Fax (208) 334-2008

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#### **IDAPA 10, TITLE 01, CHAPTER 02**

#### **RULES OF PROFESSIONAL RESPONSIBILITY**

**There are substantive changes from the proposed rule text.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 36 and 37.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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### THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 10-0102-0301

*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

#### *Subsection 005.06*

#### 005. RESPONSIBILITY TO THE PUBLIC.

##### 06. Obligation To Communicate And Be Candid. ( )

a. A Registrant shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information. ( )

b. A Registrant shall *explain a matter to the extent* reasonably necessary to permit the client to make informed decisions regarding matters over which the client has control and responsibility. ( )

c. A Registrant shall exercise independent professional judgment and render candid advice that may be relevant to the matters. ( )

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 10 - IDAHO BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS**

#### **10.01.02 - RULES OF PROFESSIONAL RESPONSIBILITY**

##### **DOCKET NO. 10-0102-0301**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 54-1208, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 27, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The proposed rule amendment would require that license holders (1) keep clients reasonably informed about the status of matters pertinent to the client's interest and promptly comply with reasonable requests for information; (2) provide information reasonably necessary to permit the client to make informed decisions regarding matters over which the client has control and responsibility; and (3) exercise independent professional judgment and render candid advice which may include considerations such as moral, economic, social, and political factors that may be relevant to the matters.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

This action does not impose or increase any fee.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes are primarily housekeeping in nature.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact David L. Curtis at (208) 334-3860.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before August 27, 2003.

DATED this 18th day of June, 2003.

David L. Curtis, P.E., Executive Director  
Board of Registration of Professional Engineers and Professional Land Surveyors  
600 S. Orchard, Suite A  
Boise, Idaho 83705-1242  
Telephone (208) 334-3860  
Fax (208) 334-2008

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 10-0102-0301**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### **005. RESPONSIBILITY TO THE PUBLIC.**

**01. Primary Obligation.** All Registrants and Certificate Holders shall at all times recognize their primary obligation is to protect the safety, health and welfare of the public in the performance of their professional duties. (7-1-93)

**02. Standard Of Care.** Each Registrant and Certificate Holder shall perform in accordance with the standard of care for the profession and is under duty to the party for whom the service is to be performed to exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. (7-1-93)

**03. Professional Judgement.** If any Registrant's or Certificate Holder's professional judgement is overruled under circumstances where the safety, health and welfare of the public are endangered, the Registrant or Certificate Holder shall inform the employer or client of the possible consequences and, where appropriate, notify the Board or such other authority of the situation. (7-1-93)

**04. Obligation To Communicate Discovery Of Discrepancy.** If a Registrant or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Registrant or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer shall make a reasonable effort to inform, in writing, the Registrant or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication shall reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Registrant or Certificate Holder whose work is believed to contain the discrepancy shall respond in writing within sixty (60) calendar days to any question about his work raised by another Registrant or Certificate Holder. Failure to respond on the part of the Registrant or Certificate Holder whose work is believed to contain the discrepancy shall be considered a violation of these rules and may subject the Registrant or Certificate Holder to disciplinary action by the Board. The discoverer shall notify the Board in the event a response satisfactory to the discoverer is not obtained within sixty (60) days. (3-30-01)

**05. Obligation To Comply With Rules Of Continuing Professional Development.** All Registrants licensed to practice professional land surveying shall comply with the requirements contained in IDAPA 10.01.04, "Rules of Continuing Professional Development". (7-1-99)

### **06. Obligation To Communicate And Be Candid.** ( )

**a.** A Registrant shall keep a client reasonably informed about the status of all matters pertinent to the client's interest and promptly comply with reasonable requests for information. ( )

**b.** A Registrant shall provide information reasonably necessary to permit the client to make informed decisions regarding matters over which the client has control and responsibility. ( )

**c.** A Registrant shall exercise independent professional judgment and render candid advice which may include considerations such as moral, economic, social, and political factors that may be relevant to the matters. ( )



## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 15 - OFFICE OF THE GOVERNOR DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

#### **15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**

**DOCKET NO. 15-0401-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5309, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The proposed rules have been amended in response to public comment and to make clarification, typographical, transcriptional, and clerical corrections to the rules, and are being amended pursuant to Section 67-5227, Idaho Code.

The most significant changes to the proposed rule are:

- The definitions of "appointment, temporary," "due process" and "hiring list" have been modified.

- The definition of "organizational unit" has been removed and replaced with a definition of "layoff unit".

- A definition of "veteran" has been added and rules 020, 093 and 102 regarding veteran's preference have been further clarified.

- Stronger emphasis on Hay system in compensation sections 070 and 075.01.b.

- Section 071 is not being republished but has reverted back to the original codified text.

- Limited service is further clarified in rules 101 and 124.04.

- Proposed rule 103 has changed and reemployment eligibility register status will remain at twelve months.

- Rules 001, 119, 125.08, 203, 243, 244, 250.02.a, and 273.03 have been further clarified.

- Reduction in force rules 140-147 have changed. For example, the retention point calculation has been streamlined to more closely resemble the current process and the rules on performance evaluations have been further clarified.

- Clarifications have been added to the promotional probation rules 153.

- Rule 241.02.a. has been deleted.

Only the sections that have changes are printed in this bulletin. Section 071 is not being republished but has reverted back to the original codified text. The original text of the proposed rules was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 177 through 222.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Daniel Steckel at 429-5507.

DATED this 20th day of November, 2003.

Ann Heilman  
Administrator  
Division of Human Resources  
700 West State Street  
P.O. Box 83720, Boise, ID 83720-0066  
(208)429-5500 / (208)334-3182 (fax)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 15, TITLE 04, CHAPTER 01

#### RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

There are substantive changes from the proposed rule text.

Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.

The text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 177 through 222.

This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.

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*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

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#### THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 15-0401-0301

##### **SECTION 001 (Entire Section)**

##### **001. TITLE, ~~AND~~ SCOPE, AND COMPLIANCE.**

**01. Title.** These rules shall be cited as IDAPA 15.04.01, "Rules of the Division of Human Resources and Idaho Personnel Commission". (3-30-01)(\_\_\_\_)

**02. Scope.** These rules establish the policies and procedures of the Idaho Personnel System. (3-30-01)

**03. Compliance.** In accordance with the Legislature's intent in creating the Idaho Personnel Act and for consistency in rule administration, appointing authorities *shall* ensure that staff with human resource management responsibilities adhere to these administrative rules. Any person willfully violating provisions of the Idaho Personnel System or the rules established in this chapter, may be subject to discipline, up to and including dismissal under Rule 190, and/or sanctions provided in Section 67-5312, Idaho Code. (\_\_\_\_)

##### **SECTION 010 (Partial Section)**

##### **010. DEFINITIONS.**

Each of the terms defined in these rules shall have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

**068. Appointment, Original Or Initial.** For purpose of assigning veteran's preference points, ~~The first appointment of time~~ a person is hired by a state agency to any classified position in state service full-time position after attaining eligible veteran's status. (Ref. Section 65-506(3), Idaho Code and Rule 102.04) (~~4-5-85~~)(\_\_\_\_)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

~~144.~~ **Appointment, Temporary.** The appointment of a person to a nonclassified position which is not permanent in nature, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) department. Such appointments also may occur for intermittent periods of time and include recurring assignments. (Ref Section 67-5302(33), Idaho Code) (7-1-87)(\_\_\_\_)

~~1922.~~ **Demotion.** The reduction of an employee from a position which the employee occupies in one (1) classification to a position in another classification with in a lower entrance salary pay grade. Demotion does not include returning an employee to a class in which the employee has permanent status for failure to complete the promotional probationary period. (Ref. Rule 150.04) (7-1-87)(\_\_\_\_)

**25. Due Process.** As related to Idaho's Personnel System for permanent classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard. (Ref. Section 67-5315, Idaho Code). (\_\_\_\_)

**33. Hiring List.** A hiring list is a subset of a register (Rule 010.61). A hiring list consists of the top ten (10) individuals, plus all individuals tied for the tenth position, certified as eligible for a specific recruitment. Candidates for reinstatement and/or transfer may be considered and are provided in addition to the top ten. (\_\_\_\_)

### IN THE PROPOSED RULEMAKING, SUBSECTION 010.41 WAS NUMBERED 010.49

**41. Layoff Unit (Organizational Unit).** A smaller geographic, programmatic, or other identified subdivision of a department determined by the appointing authority and approved by the administrator for the purpose of conducting a reduction in force (Rule 140). (\_\_\_\_)

~~3642.~~ **Leave Of Absence With Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall be compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: vacation leave, sick leave, special leave situations, and compensatory time off for overtime worked. (3-30-01)

~~3743.~~ **Leave Of Absence Without Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall not be compensated. (7-1-87)

**44. Light Or Limited Duty.** A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (\_\_\_\_)

~~3845.~~ **Merit Increase.** The advancement of an employee's compensation in accordance with Section 67-5309C(b), Idaho Code. (7-1-87)

~~3946.~~ **Minimum Qualification Specialty.** A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (7-1-93)(\_\_\_\_)

**407. New Classification.** A classification that is not essentially described by any existing job classification. (7-1-94)(\_\_\_\_)

~~418.~~ **Occasional Or Sporadic Work.** Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

~~429.~~ **On-Call Time.** Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the department where the employee may be reached if needed to work, and the employee can

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

use the time effectively for personal purposes.

(3-30-01)

71. **Veteran.** Rule 020 defines veteran for the purpose of selection, hiring, and retention preference.

( )

~~6372.~~ **Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073)  
(12-10-90)

### **SECTION 020 (Entire Section)**

#### **020. VETERANS PREFERENCE.**

Preference must be given to qualified veterans who are residents of Idaho in all employment actions including hiring, transfer, promotion, and retention except for confidential secretarial positions. (3-30-01)

**01. Veteran Defined** (For Preference Purposes). Any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States Department of Veterans Affairs for the purpose of awarding federal veterans benefits and who has been discharged from service under honorable conditions. (Ref. Sections 65-509 and 65-510, Idaho Code) (3-30-01)

**02. War Veteran (War Era) And Disabled Veteran Defined (For Preference Points On Competitive Exam).** War veterans and disabled veterans who are residents of the state of Idaho, and their widows or spouses, when qualified under state law shall have additional points added to a passing score and placed on the register in accordance with the provisions set forth in Rule 102. (Ref. Rule 093.03, and Sections 65-502, 506, 507, and 67-5309(f), Idaho Code) ~~(3-30-01)~~( )

**03. Promotion/Transfer Consideration.** Qualified veterans shall be given additional consideration in promotion and transfer decisions. When candidates are considered to be equal based on valid job related factors, veterans shall be preferred. (Ref. Sections 65-502, 65-504, 65-509, and 67-5309, Idaho Code) ~~(3-30-01)~~( )

**04. Retention.** War veterans (War Era) (as defined in Chapter 5, Title 65, Idaho Code) shall receive the equivalent of three (3) years of satisfactory service in additional points awarded towards the total calculation of retention points in a reduction of work force determination. (Ref. Rule 140 and Section 65-503, Idaho Code) ~~(3-30-01)~~( )

### **SECTION 025 (Entire Section)**

#### **0265. NEPOTISM.**

No employee shall work under the immediate supervision or management chain-of-command of a ~~supervisor who is~~ a spouse, child, parent, brother, sister or the same relation by marriage. Similar relationships such as significant others, may also create a conflict of interest and should be addressed by agency conflict of interest policy. (Ref. Section 18-1359(e), Idaho Code) ~~(8-1-81)~~( )

### **SECTION 050 (Entire Section)**

#### **050. CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.**

Nothing in these rules shall prohibit the use of independent contractors or consultants who are paid on a fee basis for legal, medical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state department. (7-1-94)

**01. No Fee Basis.** No position in the state classified service shall be filled by a consultant or independent contractor on a fee basis. (8-1-81)

**02. Limited Use Only.** Individuals employed through contracts with temporary services or

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

**Docket No. 15-0401-0301**  
**Pending Rule**

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professional staffing agencies shall be utilized only for short-term situations.

(3-30-01)

**03. Conflict Of Interest/Nepotism.** Agency policies regarding conflict of interest/nepotism should address the award of work to consultants and contractors. See Rule 024 and 025. Also Ref. Section 18-1359, Idaho Code. ( )

**04. Not To Be Treated As Employees.** Independent contractors, their staff or consultants shall not be treated as employees. Appointing authorities must comply with current Internal Revenue Service guidance on independent contractor and employee definitions. ( )

### **SECTION 066 (Entire Section)**

#### **066. ABOLISHMENT OF POSITIONS.**

An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 147. (7-1-87)

### **SECTION 070 (Entire Section)**

#### **070. COMPENSATION OF EMPLOYEES.**

**01. The Hay System.** The Division of Human Resources will use the Hay method of point factoring to determine the relative value of each classification, and as a basis for internal pay equity. (Ref. Section 67-5309B, Idaho Code) ( )

**012. Conduct Of Salary Surveys.** The Division of Human Resources shall conduct or approve salary surveys, to determine salary ranges that represent ~~competitive~~ labor market average rates for ~~all~~ Hay point factored positions in ~~the~~ classified service. (7-1-94)( )

**023. Relevant Labor Markets ~~For Classifications Up To Two Hundred Seventy Points.~~** For classifications up to two hundred seventy (270) points, the comparator market shall consist of the Idaho in-state market, representing private and public employers in the state. Labor markets used for wage comparison shall be based on the normal recruiting market for specific job classifications. Consultation with various appointing authorities will also contribute to labor market determination. (7-1-94)( )

**a.** When the competition for employees is the local area market, the comparison will be made from a survey representing public and private employers in the state of Idaho. ( )

**b.** For classifications with a regional recruiting area, the comparator market will be from public and private employers from the neighboring states and Idaho. For those with no private counterparts, the comparator market will be state governments, including, but not limited to, Arizona, Colorado, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. ( )

**c.** Recruitment and retention issues will be used to determine the need for additional special market surveys. ( )

**03. Relevant Labor Markets ~~For Classifications From Two Hundred Seventy One To Five Hundred Fifty Points.~~** For classifications from two hundred seventy-one (271) to five hundred fifty (550) points, the comparator market shall be the Idaho in-state market, representing private and public employers, and a group of nine (9) Western State governments, consisting of Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. (7-1-94)

**04. Relevant Labor Markets ~~For Classifications Above Five Hundred Fifty Points.~~** For classifications above five hundred fifty (550) points, the comparator market is the nine (9) Western State governments identified in Rule 070.03, and other relevant markets. (3-30-01)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

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**Docket No. 15-0401-0301**  
**Pending Rule**

**054. Salary Schedule.** The administrator shall adopt the salary ranges for the pay grades in Section 67-5309C, Idaho Code, ~~which normally represents eighty five percent (85%) to one hundred twenty five percent (125%) of the payline policy formulas in Section 67-5309B, Idaho Code;~~ in a public meeting after notice, and a current salary schedule shall be ~~provided to~~ made available to the public and all appointing authorities. ~~(3-30-01)( )~~

**065. Compensation Plan.** Significant changes to components of the compensation plan shall be presented in a public meeting after notice. (3-30-01)

#### **SECTION 071 (Entire Section Reverted Back To Original Text)**

#### **071. COMPENSATION PLAN REVIEWS.**

**01. Review OF Compensation Schedule.** The Division of Human Resources in cooperation with the various appointing authorities shall conduct reviews of the compensation plan. (3-30-01)

**02. Affirmation Of Factoring.** In the review of classifications, the factoring of a class may be affirmed if there has been no significant change in the duties of the classification and the factoring appears to be correct. (7-1-93)

#### **SUBSECTION 072.06.a. (Partial Section)**

#### **072. OPERATION OF COMPENSATION PLAN.**

**06. Salary Upon Reinstatement.** Unless related to reemployment after a lay off, the salary of a reinstated employee (Rule 1254) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. ~~(7-10-88)( )~~

~~**a.** Except as otherwise provided in the following rule, the salary of a reinstated employee (Rule 125) is negotiable between the employee and appointing authority in the current pay grade for the class in which the employee has reinstatement privileges.~~ ~~(3-30-01)~~

#### **SUBSECTIONS 073.03.c., 073.03.d., and 073.06.g. (Partial Section)**

#### **073. CALCULATION OF PAY.**

**03. Holiday Pay Calculation.** (7-1-87)

**c.** A part-time employee who has a regular work schedule shall be paid for a holiday ~~in the same proportion to ratio as~~ eight (8) hours ~~that the hours the employee normally works in is to a forty (40) hour work week bear to forty (40),~~ which for calculation purposes converts to two tenths (.20) x hours normally worked; ~~or 2) to the extent the employee would have worked had the holiday been a regular workday. The use of method 1) or 2) is discretionary with the appointing authority.~~ ~~(7-1-87)( )~~

**d.** If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, ~~an appointing authority may substitute the following method for 1) above:~~ the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs ~~bear relate~~ to forty (40). ~~(4-5-85)( )~~

**06. Department Salary Administration Policies.** Each department shall adopt and file with the administrator current salary administration policies for the following actions to insure fairness and equity for all employees within that department: (3-30-01)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

- g. On-call time (Rule 010.402). (4-5-85)(\_\_\_\_)

### ***SUBSECTION 075.01 (Partial Section)***

#### **075. SHIFT DIFFERENTIAL.**

01. Eligibility. (12-10-90)

a. Shift differential compensation shall be paid if fifty percent (50%) or more of an employee's assigned hours in a workweek occur between 6 p.m. and 7 a.m. Leave hours taken shall be regarded as having been assigned during the same hours that the employee would have worked. (12-10-90)

b. Shift differential compensation shall be paid for all hours worked by an an relief shift employee whose primary responsibility is to work in place of an absent employee and, whose assigned schedule varies from nights, days, and/or swing. (12-10-90)(\_\_\_\_)

### ***SECTION 085 (Entire Section)***

#### **085. CONTENT OF ANNOUNCEMENTS.**

Each announcement ~~of an examination~~ shall contain the title of the classification, characteristic duties and responsibilities, salary, minimum qualifications, nature of ~~the~~ examination, ~~relative weights of the various portions of the examination,~~ qualifying score, closing date, equal opportunity and veterans preference notice, and other pertinent information. (4-5-85)(\_\_\_\_)

### ***SUBSECTION 086.05 (Partial Section)***

#### **086. APPLICATIONS.**

05. **Promotion Of Entrance Probationary Employee.** Any classified employee on entrance probation may file an application for a promotional opportunity ~~but may not be~~ and be placed on a register ~~but may not be appointed~~ until permanent status has been attained. (Ref. Rules 16052.01. and 17069.03.) (7-1-87)(\_\_\_\_)

### ***SUBSECTION 093.03 (Partial Section)***

#### **093. CONDUCT AND RATING OF EXAMINATIONS INCLUDING VETERANS' PREFERENCE POINTS.**

03. Veterans' Preference. (4-5-85)(\_\_\_\_)

a. War ~~V~~veterans' and disabled veterans' points, when applicable under state law, shall be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Veterans' preference points are only applicable when the applicant is a resident of Idaho. (Ref. Sections 65-5026 and 67-5309(f), Idaho Code) (4-5-85)(\_\_\_\_)

b. War ~~V~~veterans' and disabled veterans' preference points shall not be added to the raw score in order to achieve a passing score. (4-5-85)(\_\_\_\_)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION Human Resources and Personnel Commission Rules

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Docket No. 15-0401-0301  
Pending Rule

#### SUBSECTION 101.01 (Partial Section)

##### 101. TYPES OF ELIGIBILITY REGISTERS.

There are four (4) kinds of eligibility registers:

(4-5-85)

01. ~~Layoff~~ Reemployment Preference Registers. ~~Departmental layoff~~ Registers with reemployment preference shall for a given classification contain the names of classified employees of permanent ~~or probationary~~ status who have been laid off or ~~demoted because of shortage of work or funds, reorganization, or abolishment of a position. Ranking on such register is to be made in accordance with Rule 146, governing employee preference notified of a pending layoff~~ except limited service appointments. (See Rule 140 and 146). (4-5-85)(\_\_\_\_)

#### SUBSECTIONS 102.03 and 102.04 (Partial Section)

##### 102. PLACEMENT ON REGISTER.

03. **Disabled Veterans' Preference.** Eligible disabled veterans or surviving spouses entitled to ten (10) point preference shall be placed at the top of the open-competitive register above all other non-preference candidates in order of their final score on the examination augmented by preference points. (Ref. Rule 093.03; and Section 65-605506, Idaho Code) (3-30-01)(\_\_\_\_)

04. **Veterans' Preference Points For Initial Appointment Only.** The additional points added by reason of veterans' preference shall be used ~~for initial appointment~~ the first time a qualified veteran is hired by a state agency and not for the purpose of promotions ~~in classified service~~. (Ref. Section 65-506, Idaho Code) (3-30-01)(\_\_\_\_)

#### SECTION 103 (Entire Section)

##### 103. DURATION OF ELIGIBILITY REGISTERS.

01. ~~Eligible Candidates~~ Reemployment Preference Registers. Eligible candidates ~~on layoff registers~~ will remain thereon for twelve (12) months from effective date of layoff. (Ref. Rules 101.01 and 144) (3-30-01)(\_\_\_\_)

02. ~~Duration~~ Other Registers. The duration of all other registers will be determined by the administrator based on the frequency of job openings and agency need. (3-30-01)(\_\_\_\_)

#### SECTION 109 (Entire Section)

##### 1402. CERTIFICATION AND SELECTION.

Whenever a vacancy in a classified position is to be filled by ~~the~~ a competitive ~~examination~~ recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division of Human Resources' staff. Non-promotional internal or external transfers or reinstatements do not require registers certified by the Division of Human Resources. (4-5-85)(\_\_\_\_)

#### SUBSECTION 111.02 (Partial Section)

##### 1121. ADEQUATE REGISTERS.

A register with at least five (5) eligible candidates shall be adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may: (3-30-01)

02. **Provisional Appointment.** Make a provisional appointment pursuant to Rule 12019.05.

(3-30-01)(\_\_\_\_)



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### **SUBSECTION 121.02 (Partial Section)**

#### **1221. SEASONAL APPOINTMENT.**

**02. Employee Rights.** Employees appointed under a seasonal appointment will have all obligations, rights, and privileges of any classified employee except those accorded by Rules 140 through 147, relating to reduction in force. ~~(12-10-90)( )~~

### **SUBSECTION 124.04 (Partial Section)**

#### **1254. REINSTATEMENTS.**

**04. Probationary Period.** An appointing authority may negotiate for a probationary period as a condition of reinstatement except ~~as provided in Rule 125.05 or when hiring off a layoff register~~ where prohibited. (Ref. Rules 124.05 and 145.01). ~~(3-30-01)( )~~

### **SUBSECTIONS 125.04 and 125.08 (Partial Section)**

#### **1265. TRANSFERS.**

**04. Limitation.** Transfers shall not be used to abridge an employee's rights in reduction in force prescribed by Rules 140 through 147. (7-1-87)

**08. Involuntary Transfer.** Notice and an opportunity to be heard must be given to any employee subject to an involuntary transfer. (Ref. Rules 010.39 and 200.01.a.). ( )

### **SECTION 140 (Entire Section)**

#### **140. REDUCTION IN FORCE.**

**01. Conditions For Layoff.** An appointing authority may lay off an employee whenever ~~it is~~ necessary ~~because of~~ due to: ( )

**a.** ~~Shortage of funds or work;~~ ( )

**b.** ~~Reorganization;~~ ( )

**c.** The end of a limited service appointment; ( )

**d.** An employee's failure to complete interagency promotional probation when demotion options are not available; or ( )

**e.** ~~The abolishment of one (1) or more positions (ref. Rule 066). A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to a lower pay grade shall not constitute a layoff (ref. Rule 067). A reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions within the department or within the organizational unit approved pursuant to Rule 140.02.~~ ( )

**02. Layoff Decisions Must Not Be Based On.** Layoff decisions must not be based on race, color,

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national origin, gender, age, religion, disability, or political affiliation. Layoffs shall be accomplished in a systematic manner with equity for the rights of classified employees and shall not ~~abrogate~~ do away with an employee's right of ~~grievance~~ to problem solving, or appeal if the layoff is in fact a dismissal. (4-5-85)( )

**03. Assessment For Adverse Impact.** In planning and conducting a reduction in force, the appointing authority shall consider the effect layoff units and positions to be abolished may have on the composition of the agency work force. If layoff units and/or exclusions are established, adverse impact of protected classes shall be assessed. The appointing authority shall administer the reduction in force consistent with state and federal laws, and rules and guidelines governing adverse impact. ( )

**04. Layoff By Position.** Reduction in force shall be by classification of position ~~regardless of class of incumbent.~~ (4-5-85)( )

a. Reduction in force may be limited to or specifically exclude employees appointed under selective certification, (Rule 11~~3~~2) for bona fide occupational qualifications, or appointed ~~under specific options or to a classification with~~ minimum qualification specialties ~~in a class.~~ Inclusions or exclusions must include or exclude all incumbents of the classification appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the administrator. (7-1-93)( )

b. Reduction in force for employees in limited service appointments shall be limited to the program or function for which the appointments were made. An appointing authority may petition the administrator to exclude an individual or individuals from a reduction in force whose retention may be required to meet agency mission critical needs. Requests must provide a documented rationale and exclusions must be approved in advance by the administrator. (4-5-85)( )

c. Reduction in force for employees in seasonal appointments will be governed by workload fluctuations and has no applicability under this rule. (Ref. Rule 122). Limited-service appointments are defined by the project, program, or function for which the appointments were made. When a limited service project is completed or funding concluded, the limited service appointee is separated from state service as a layoff. However, limited service appointees have no reemployment preference and shall not displace other regular permanent or limited services staff via voluntary demotion in lieu of layoff. (12-10-90)( )

**025. Layoff Unit.** Reduction in force shall be department-wide or by organizational unit ~~determined by the appointing authority provided the organizational unit designation designated~~ for layoff purposes, ~~is made~~ Layoff units (subdivisions of an agency for layoff purposes) are designated by the appointing authority and must be approved by the administrator before the effective date of the layoff. Organizational layoff unit designations must be renewed with a change in appointing authority or administrator. (4-5-85)( )

**06. Reduction Of Hours Worked.** An involuntary reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions in the same classification in the department or approved layoff unit for a limited period of time, i.e. furlough. ( )

**07. Downward Reclass.** A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to one pay grade lower shall not constitute a layoff. (Ref Rule 067). More than one (1) pay grade change downward is considered a layoff, unless the change of duties is disciplinary (Ref. Rule 190). ( )

### SECTIONS 141 through 149 (Entire Sections)

#### ~~03~~141. CALCULATION OF RETENTION POINTS.

There shall be ~~competition among~~ an evaluation of all employees in the classification in the department or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations and classified credited state service. Qualified war veterans are given preference through additional retention points. (Ref. Rule ~~24~~0141.05). The appointing authority will

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determine a process for the impartial assessment of evaluations to assign points as follows:

<u>Overall Performance Level Documented As:</u>	<u>Retention Points Earned Per Hour of Credited State Service</u>
Superior or equivalent	.100
Very Good or equivalent	.075
Satisfactory or equivalent	.050
Needs Improvement or equivalent	.000
Unsatisfactory	.000

(7-1-87)( )

**01. No Performance Evaluation On File For A Twelve-Month Period.** All credited state service for which there is no performance evaluation shall receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation. (4-5-85)( )

**a. Grace period.** Supervisors have ninety (90) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that ninety (90) day time frame, the evaluation may be written to cover the two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation. ( )

**b. Changes in prior periods not allowed.** Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution. ( )

**02. Calculation Of Retention Points Since Last Evaluation.** The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points shall be calculated in conformance with Rule 141.03. ( )

**03. Qualified War Veterans (War Era) Preference.** War veterans (War Era) as defined in Chapter 5, Title 65, Idaho Code, shall receive a bonus of three hundred twelve (312) preference by the addition of retention points which is equivalent to three (3) years of satisfactory service. (4-5-85)( )

**04. Calculation Date Cutoff.** No points shall be calculated for the last three (3) months sixty (60) days prior to a reduction in force the effective date of the layoff. (4-5-85)( )

**05. Audit Of Retention Points.** Each employee shall be entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor shall be binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. (7-1-87)

### **142. CREDITED STATE SERVICE.**

Eligible credited state service for purposes of Rule 140 is defined as follows:

(4-5-85)

**01. Service Prior To State Personnel System.** All credited state service prior to the establishment of classified service, Chapter 53, Title 67, Idaho Code. (Ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions of credited state service) (4-5-85)

**02. Classified Service.** All classified credited state service since the establishment of classified

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service. (4-5-85)

**03. Nonclassified Service.** All credited state service in a position exempt from classified service if that position is subsequently transferred to classified service pursuant to Rule 040. (7-1-87)

~~**04. Leave Of Absence From Classified Service.** All credited state service, in a leave of absence from classified service, that a classified employee serves in a nonclassified position. Limitations are contained in Rules 250.02.a. and 125.01.a. (7-1-87)~~

#### **1423. PROCEDURE REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.**

**01. Identification Of Classifications.** The appointing authority shall identify the classification(es) of positions to be affected by layoff and the organizational unit if applicable under Rule 140.02 reduced or eliminated. (4-5-85)( )

**02. Calculation Of Retention Points.** Retention points shall be calculated for all employees assigned to the classification of position including those serving in underfill positions (Ref. Rule 010.60 ~~or acting appointments (Ref. Rule 130).~~ Employees on approved leave of absence without pay shall not be included (Ref. Rule 142.04). Retention points need not be calculated where layoff involves a single-incumbent class. (7-1-87)( )

**03. Order Of Reduction In Force.** The order of reduction in force shall be by type of appointment held by the employee in the affected classification(es) as follows: first to be laid off are provisional appointees, next the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees shall be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs shall be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention shall be determined in the following sequence: (Ref. Rule 150.02.c.) (3-30-01)( )

**a.** The employee with the highest ~~overall average performance credit~~ (total retention points ~~divided by total credited state service~~) for the past thirty-six (36) months. (4-5-85)( )

**b.** Random selection. (4-5-85)

~~**04. Employee Returning From Leave Of Absence.** An employee returning from a leave of absence without pay to a class for which a layoff register exists will be laid off in accordance with these rules if there are employees on the layoff register for the class with more retention points (Ref. Rule 142.02). (7-1-87)~~

~~**054. Notification Of To Affected Employees.** Each employee affected shall be notified in writing of layoff and reasons therefor the rationale for the decision at least fifteen (15) calendar days prior to the effective date of the layoff. Notification shall include a copy of the departmental layoff procedure and a copy of the computation of retention points when required (Ref. Rule 142.02). (4-5-85)( )~~

~~**065. Notification To Administrator.** The appointing authority shall give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and shall provide a list of persons affected by the layoff with their retention point calculations and shall indicate which employees will be laid off. (4-5-85)~~

#### **144. PLACEMENT ON LAYOFF REGISTER WITH REEMPLOYMENT PREFERENCE.**

~~An permanent employee who elects a voluntary demotion in lieu of layoff or an employee laid off from state service their job or who chooses a voluntary demotion in lieu of a layoff, under these rules shall be placed on a layoff their classification's register (Rule 101.01) in accordance with Rule 146 with reemployment preference in unranked order. Such placement will be for one (1) year from the effective date of demotion or layoff, or until the employee or former employee declines a total of three (3) separate job offers of reemployment without good cause, whichever comes first. (Rule 104.051.n.) An employee or former employee may request their name be removed at any time. (3-30-01)( )~~

#### **145. USE OF LAYOFF REGISTERS WITH REEMPLOYMENT PREFERENCE.**

**01. Offer Of Priority For Reemployment By Agency That Conducted The Layoff.** ( )

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a. ~~An~~ The employee on a layoff register who has been laid off, or officially notified of a pending layoff date (Ref. Rule 143.05) shall be offered reemployment to a position in the classification from which laid off ~~or layoff is pending~~, before any ~~other~~ person outside that agency may be promoted to, transferred to, reinstated, or appointed, ~~including acting appointment~~, to such that classification by ~~the~~ an appointing authority ~~enforcing the layoff of that department or agency~~. Appointing authorities ~~in other departments are only required to offer an interview. (Ref. Rule 101.01)~~ may reassign or transfer individuals who are in the same classification within their department but may not demote, promote, reclassify, or make acting appointments to that classification. If that department determines a need to fill that classification, the employee scheduled for lay off or who was laid off has first priority for that position. (Ref. Rule 125.04 and 125.08) Extenuating circumstances due to short term budget, workload, location, or other complexities may be used by the appointing authority to request a temporary waiver of this rule by the administrator. (3-30-01)( )

b. When attempting to fill vacancies for a classification where a lay off occurred, the department or agency shall provide an opportunity to interview and shall make their hiring selection from the individuals their agency laid off from the classification, including those separated from state service under Rule 150.02 and those that took a voluntary demotion in lieu of layoff. ( )

c. Individuals being returned to the classification from which they were laid off will be reinstated with the same salary, permanent status and their sick leave balance restored. If the pay minimum has increased, see Rule 072.04. ( )

02. ~~Optional Return To Layoff Register. When an employee is appointed from a layoff register, but finds the position unsatisfactory, they may resign, and request recertification to the layoff register for the remainder of their twelve (12) month eligibility period.~~ Consideration For Hire By Other Agencies. For promotional opportunities, internal agency candidates are normally considered before outside recruitment occurs, including other agencies' laid off candidates. However, individuals who have been laid off must be offered the opportunity to interview before other agencies consider candidates from statewide promotional or open-competitive recruitments. (3-30-01)( )

03. Employment By Other Agency. Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. ( )

04. Return To Register. If an individual finds another agency's position unsatisfactory or does not satisfactorily complete a voluntary probation period, he or she may be placed back on a register for the remainder of their twelve (12) month time frame. Individuals appointed to a position, other than the classification from which laid off, will remain on preference register status for the remainder of the twelve (12) month period if otherwise eligible. ( )

#### **1476. INTERVIEWS FOR PROSPECTIVE LAYOFFS.**

~~Any~~ Employees who has been notified or identified as likely to be affected by a layoff ~~shall~~ may request to be placed on a register for the classification from which the layoff will occur. (Ref. Rule 146.01.a.) Departments attempting to fill such vacancies All agencies shall offer an interview to these individuals when attempting to fill such vacancies through statewide promotion or open competitive recruitments. (Ref. Rule 145.02) (3-30-01)( )

#### **1487. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.**

Within their layoff unit, an employee with permanent status may choose to accept a voluntary demotion rather than be laid off. Demotion options are limited to a classification, or if deleted, its successor, in which the employee held permanent status in the department. Such demotion shall not be permitted if it causes the layoff of an employee with greater retention points. ( )

##### 01. Eligibility. ( )

a. Qualified. Employee must meet the classification's current minimum qualifications and any minimum qualification specialties. ( )

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**b.** Exclusion. Limited service appointees are not eligible to take any voluntary demotion that would result in the displacement of other employees. However, voluntary demotions to a vacant position are allowed with the approval of the appointing authority. ( )

**02.** Acceptance. To accept a voluntary demotion rather than a layoff, the employee must notify the appointing authority in writing of their decision no later than three (3) working days after written notification of the layoff and opportunity to demote to a specific position. ( )

148. -- 149. (RESERVED).

### SECTIONS 152 and 153 (Entire Sections)

#### 152. ~~UNSATISFACTORY SERVICE~~ SEPARATION DURING PROBATION.

**01.** Notification. ~~Should~~ If a probationary employee ~~fail to~~ does not serve satisfactorily, the appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Division of Human Resources a performance evaluation indicating unsatisfactory performance. (Ref. Section 67-5309(j), Idaho Code and Rule 210.04) ~~(7-1-87)~~( )

**02.** During Entrance And Voluntary Probation. ~~(3-30-01)~~

~~a.~~ An employee who ~~fails to~~ does not serve satisfactorily during the entrance or voluntary probation shall first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. ~~(3-30-01)~~( )

**03.** During Promotional Probation. ~~If an employee on promotional probation fails to serve satisfactorily in the position to which he or she has been promoted, the employee shall be returned to a position in the class in which he or she holds permanent status or to a classification allocated to the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. As with all employees, a violation of Rule 190 may result in disciplinary action up to and including dismissal.~~ ~~(3-30-01)~~

#### 153. UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.

**01.** Disciplinary Action. Regardless of the probation status, when a Rule 190 violation supports demotion, suspension, or dismissal, such action may occur. ( )

**02.** Intra-Agency. If an employee, on promotional probation, does not meet performance expectations, he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. ( )

**03.** Inter-Agency. ( )

**a.** The employee may voluntarily demote to a vacant position in any classification he or she has held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one (1) option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointing authority. ( )

**b.** If no position is available for the voluntary demotion option, the employee may be laid off and may: ( )

**i.** Request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or ( )

**ii.** Request their name be placed on a register for the classification in the agency where they last held

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permanent status. ( )

c. When reinstatement occurs in the classification they promoted from, in the new agency or the prior agency, the employee's name is removed from reemployment required preference status. ( )

#### SECTION 181 (Entire Section)

##### 1821. NONDISCIPLINARY DEMOTION OPTIONAL.

An appointing authority may ~~make allow~~ a ~~nondisciplinary~~ voluntary demotion when: (4-5-85)

~~01. Voluntary.~~ Requested or accepted by an employee and approved by the appointing authority. (4-5-85)( )

~~02. Displaced In Layoff. An employee is displaced by another employee entitled to the position pursuant to this Rule Section.~~ (7-1-87)

1853. -- 189. (RESERVED).

#### SECTION 203 (Partial Section)

##### 203. REFERRALS FROM FEDERAL AGENCIES ON DISCRIMINATION COMPLAINTS.

When the Division of Human Resources receives a complaint from a federal agency alleging violation of employment laws, the administrator shall take prompt action to investigate. If the complaint is department specific, the appointing authority will take necessary actions to ensure the investigation is thorough, staff are fully cooperative, and submit findings and any corrective action plan to the administrator and other proper authorities. ( )

#### SUBSECTIONS 210.03, 210.06, and 210.07 (Partial Section)

##### 210. PERFORMANCE EVALUATIONS.

**03. Purpose.** The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established ~~work standards~~ expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All ~~ratings~~ performance evaluations shall be discussed with affected employee who shall be allowed opportunity to submit written comments regarding the ~~rating~~ evaluation contents. (4-5-85)( )

**06. Retention Of Evaluation.** A copy of the performance evaluation shall be retained in departmental records, and a copy shall be furnished to the employee. ~~A copy~~ The performance rating shall be provided transmitted to the administrator, ~~with or without~~ Agency records and supporting documentation are subject to review by the Division of Human Resources. All performance evaluation documents shall be copied and forwarded with the employee when an interagency promotion, demotion or transfer occurs. (7-1-94)( )

**07. Supervisors' Requirements.** Supervisors are required to manage performance on a consistent basis including completion of performance evaluations on all employees under their direct supervision. ( )

#### SUBSECTION 240.04 (Partial Section)

##### 240. SICK LEAVE.

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**04. Medical, Dental, Or Optical Appointments Leave (MDA).** Employees are allowed up to two (2) hours for each occasional appointment without charge to sick leave for personal or family-member medical, dental or optical examination or treatment. Occasional appointments are those which are traditionally considered to be preventative, wellness related, or diagnostic. Ongoing treatment for physical or mental illness is not covered by MDA. Use of this benefit may be limited by the appointing authority on a case by case basis where frequency of use is impeding organizational effectiveness or misuse is suspected. If more than two (2) hours are needed for appointments additional time may be charged to sick leave. (Ref. Rule 250.13) ~~(3-30-01)~~(\_\_\_\_)

#### SECTION 241 (Entire Section)

#### 241. WORKERS COMPENSATION AND DISABILITY.

**01. Use Of Leave In A Workers Compensation Claim.** In the event of a disability incurred on the job covered by workers compensation, the employee shall be given the choice of either: 1) leave of absence without pay while receiving workers compensation; or 2) utilizing a portion of accrued sick leave to supplement workers compensation to maintain his or her regular salary. No appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his or her rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (4-5-85)

**02. Layoff After Six Months' Disability.** If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after six (6) months' absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position shall be declared vacant. (Ref. Rule 101.01) The period of absence is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks. Return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. (3-30-01)

~~**a.** The disabled employee's retention points need not be calculated unless there are other employees on the departmental layoff register in the same class. The employee shall be entitled to reemployment preference pursuant to Rules 145 and 146 and reinstatement privileges provided under Rule 125 when released by his or her physician to return to work. (12-10-90)~~

**bg.** The ~~disabled~~ employee's name shall be certified to a ~~layoff register~~ reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. (\_\_\_\_)

**b.** Conditional releases will be considered in accordance with the Americans with Disabilities Act. ~~(3-30-01)~~(\_\_\_\_)

#### SUBSECTION 243.01 (Partial Section)

#### 243. MATERNITY AND PATERNITY LEAVE.

**01. Use Of Sick Leave.** ~~Disabilities caused or contributed to by p~~Pregnancy, child birth or related medical conditions generally are considered temporary disabilities and shall be treated as such for sick leave purposes. Maternity and paternity leave shall be granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. ~~(3-30-01)~~(\_\_\_\_)

#### SECTION 244 (Entire Section)

#### 244. SEPARATION UPON FAILURE TO RETURN TO WORK.

Except for those employees on authorized leave or placed on a ~~layoff~~ register ~~as~~ with reemployment preference prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) working days after approved paid or unpaid leave or release by his or her physician shall be considered as having resigned voluntarily separated.



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Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement as provided under Rule 1254. Written notification of his or her separation/resignation shall be mailed to the last known home address. Any objections by the employee to the notice, must be received within five (5) working days of receipt of the notice, or acceptance of the separation/resignation will be presumed. If objections are received within the timeline, a disciplinary separation (dismissal) or other formal disciplinary action may be pursued as provided in Rule 190. (3-30-01)( )

#### **SUBSECTIONS 250.02.a. and 250.02.b. (Partial Section)**

#### **250. SPECIAL LEAVES.**

##### **02. Leave Of Absence To Assume A Nonclassified Position. (7-1-93)**

**a.** Approval. An appointing authority may approve a leave of absence without pay may be granted from classified service to a classified employee to assume a nonclassified position-in state service. Such leave of absence shall not extend beyond the time the employee would be eligible for reinstatement to classified service or ninety (90) days past the service of the appointing authority, whichever comes first. (Ref. Rule 1254.01.a.) (7-1-87)( )

**b.** Credited State Service. An employee ~~returning from a~~ on leave of absence ~~granted~~ to assume a nonclassified position ~~shall be allowed classified continues to accrue~~ credited state service ~~for the leave in the class from which he or she was granted the leave of absence. Credit shall not exceed time limits established above.~~ (4-5-85)( )

#### **SECTION 273 (Entire Section)**

##### **273. MINIMUM HUMAN RESOURCE POLICIES.**

In order to ensure consistent minimum standards for employee rights and responsibilities under federal law, Idaho Code, and executive orders, each agency is required to have policies on the following, and take steps needed to inform employees of their rights and responsibilities under those same policies. If an appointing authority does not provide employees with the agency specific policy, a model policy issued by Division of Human Resources will apply. ( )

- |            |  |     |
|------------|--|-----|
| <b>01.</b> | <b><u>Problem Solving.</u></b> (Ref. Rule 200)   | ( ) |
| <b>02.</b> | <b><u>Due Process.</u></b> (Ref. Rule 200.01.a.)   | ( ) |
| <b>03.</b> | <b><u>Compensation, Including Overtime and Compensatory Time.</u></b> (Ref. Rule 073.06) | ( ) |
| <b>04.</b> | <b><u>Reasonable Accommodations/ADA.</u></b> (Ref. Rule 021)                             | ( ) |
| <b>05.</b> | <b><u>Sexual Harassment And Other Illegal Discrimination.</u></b> (Ref. Rule 021)        | ( ) |
| <b>06.</b> | <b><u>Conflict Of Interest - Nepotism.</u></b> (Ref. Rule 024 and 025)                   | ( ) |
| <b>07.</b> | <b><u>Drugfree Workplace.</u></b> (Ref. Rule 190.01.f.)                                  | ( ) |

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### IDAPA 15 - OFFICE OF THE GOVERNOR DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

#### 15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

#### DOCKET NO. 15-0401-0301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has proposed rulemaking. The action is authorized pursuant to Section 67-5309, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be held as follows:

**Friday, October 3, 2003,** 10 am-Noon -- 1:30-3:30, Idaho State Police, 700 S. Stratford, Meridian, ID

**Monday, October 6, 2003,** 10 am-Noon, Department of Health and Welfare, 1118 F Street,  
3rd Floor Conference Room, Lewiston, ID

**Monday, October 6, 2003,** 2-4 pm, Idaho State Veterans Home, 821 21st Ave, Lewiston, ID

**Tuesday, October 7, 2003,** 10 am-Noon, CDA Lands, 1118 F St., 3rd Floor Conference Room, Lewiston, ID

**Tuesday, October 7, 2003,** 4-6 pm, CDA DEQ Large Conference Room, 2110 Ironwood Parkway,  
Coeur d'Alene, ID

**Tuesday, October 7, 2003,** 2:30-4:30 pm, BSU, Jordan A Room (SUB), 1910 University Drive, Boise, ID

**Tuesday, October 7, 2003,** 10-11:30 am -- 1-2:30 pm, Department of Health and Welfare,  
Conference Rooms A and C, 601 Pole Line Rd., Twin Falls, ID

**Wednesday, October 8, 2003,** 10 am-Noon -- 1:30-3:30 pm, Idaho State Police, 700 S. Stratford, Meridian, ID

**Wednesday, October 15, 2003,** 10 am-Noon Conference Room C and D -- 1:30-3:30 pm Conference Room D,  
Department of Environmental Quality, 1410 North Hilton, Boise, ID

**Wednesday, October 15, 2003,** 10 am-Noon, DHR, Idaho Room, 700 W State St., Boise, ID

**Monday, October 20, 2003,** 8:30-10:00 am, ISU, North Fork Room (SUB), 921 S. 8th, Pocatello, ID

**Monday, October 20, 2003,** 2:30-4:30 pm, Idaho State Veteran's Home, 1957 Alvin Ricken Drive, Pocatello, ID

**Tuesday, October 21, 2003,** 10 am-Noon, DEQ, 900 North Skyline Drive, Idaho Falls, ID

**Tuesday, October 21, 2003,** 2-4 pm, DJC (Chapel), 2220 E. 600 N., St. Anthony, ID

**Wednesday, October 22, 2003,** 5:30-7:30 pm, DEQ, Ste. 300 Snake River Rm, 444 Hospital Way, Pocatello,

ID

Additional hearings around the state will be announced.

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking: Continuing reform of the personnel system rules to make them more effective, efficient and understandable. More significant changes include:

Adding definitions for administrator, appointing authority, seasonal appointment, due process, hiring list, light or limited duty, organizational unit, in-grade promotion, and recruitment. Clarifying existing definitions.

Updating compensation provisions. Broadening labor market comparators to better reflect the relative labor market.

Defining circumstances where an employee can be paid outside their salary range.

Clarifying payment of holiday benefit and shift differential.

Updating bonus provisions to conform with code.

Significant changes to the layoff determination process and reemployment preference rights.

Modification to length of time an applicant can be removed from eligibility registers.

Clarification of rights of limited service employees.

Rule allowing conversion to temporary appointments to classified service under certain circumstances.

Significant changes to employee status upon unsatisfactory performance during promotional probation.

Clarification of veterans' preference procedures.

Rule allowing for expedited dismissal of non-judicial appeals.

Allowing costs and attorney fees to be awarded to the prevailing party in an appeal.

Clarifying who may represent employees before the IPC.

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION**  
**Human Resources and Personnel Commission Rules****Docket No. 15-0401-0301**  
**Proposed Rulemaking**

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Identifying circumstances where an employee will be considered to have resigned.  
Discussion of sick leave abuse.  
Clarifying procedure for donated leave.  
Clarifying that service records of former employees seeking reinstatement should be shared with the agency considering hire.  
Clarifying supervisor responsibility to manage and document performance.  
Clarifying nepotism and conflict of interest rules.  
Expanding the use of sick leave to include foster children.  
Setting out minimum human resource policies.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, informal negotiated rulemaking was conducted. Input was solicited through electronic mail, as well as meetings with state human resources personnel.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Daniel Steckel at 429-5507.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 27th day of August, 2003.

Ann Heilman, Administrator  
Division of Human Resources  
700 West State Street  
P.O. Box 83720, Boise, ID 83720-0066  
(208) 429-5500

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 15-0401-0301**

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**IDAPA 15, TITLE 04, CHAPTER 01****15.04.01 - RULES OF THE DIVISION OF HUMAN RESOURCES  
AND IDAHO PERSONNEL COMMISSION****001. TITLE, ~~AND~~ SCOPE, AND ENFORCEMENT.**

**01. Title.** These rules shall be cited as IDAPA 15.04.01, "Rules of the Division of Human Resources and Idaho Personnel Commission". (3-30-01)( )

**02. Scope.** These rules establish the policies and procedures of the Idaho Personnel System. (3-30-01)

**03. Enforcement.** In accordance with the Legislature's intent in creating the Idaho Personnel Act and for consistency in rule administration, appointing authorities have the responsibility to ensure that staff with human resource management responsibilities adhere to these administrative rules. Any person willfully violating provisions of the Idaho Personnel System or the rules established in this chapter, may be subject to discipline, up to and including dismissal under Rule 190, and/or sanctions provided in Section 67-5312, Idaho Code. ( )

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **003. CITATION OF RULES.**

The official citation of the Division of Human Resources and Idaho Personnel Commission's (the "Commission") rules is, for example, IDAPA 15.04.01.072.01. An informal reference may be made to "Rule 072.01". ~~(7-1-93)~~(\_\_\_\_)

#### **004. ADDRESS AND PHONE NUMBERS OF THE DIVISION OF HUMAN RESOURCES AND IDAHO PERSONNEL COMMISSION.**

The offices of the Division of Human Resources and Idaho Personnel Commission are located at 700 West State Street, Boise, Idaho 83720-2700~~66~~. The phone number of the Commission and the Division of Human Resources is (208) 334-2263. Additional phone numbers are: ~~a job announcement recording at (208) 334-2568~~; a toll-free number, 1-800-554-JOBS (5627); a toll-free TDD or telecommunications device for the deaf, 1-800-542-5738. The Division's and Commission's FAX number is (208) 334-3182. ~~(3-30-01)~~(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

#### **007. DESIGNATION OF OFFICERS.**

The chair~~man~~ of the Idaho Personnel Commission shall be appointed by the Governor pursuant to Section 67-5307(3), Idaho Code. At its first meeting each calendar year, the ~~Personnel~~ Commission shall designate a vice-chair~~man~~ for the ensuing year. ~~(4-5-85)~~(\_\_\_\_)

#### **008. ~~(RESERVED)~~ APPLICABILITY TO HEALTH DISTRICTS.**

These rules apply to Public Health Districts even though specific references are to state employment. (\_\_\_\_)

#### **009. DUTIES OF THE ADMINISTRATOR.**

In addition to other duties as assigned by law, the administrator shall provide administrative support to the Idaho Personnel Commission, shall have custody of the books and records of the Division of Human Resources and ~~Personnel~~ the Commission, and shall maintain a record of the proceedings before the Commission and its hearing officers. ~~(4-5-85)~~(\_\_\_\_)

#### **010. DEFINITIONS.**

Each of the terms defined in these rules shall have the meaning given herein unless a different meaning is clearly required by the context. Additional definitions are contained in Section 67-5302, Idaho Code. (7-1-87)

**01. Administrator.** The Administrator of the Division of Human Resources in the Office of the Governor. (\_\_\_\_)

**042. Allocation.** The assignment of a classification to a pay grade in the compensation schedule. ~~(8-1-81)~~(\_\_\_\_)

**023. Appeal.** Any written request for relief from dismissal, demotion, suspension, or other adverse action filed with the ~~Personnel~~ Commission by an employee, appointing authority, or applicant. The meaning of appeal includes application, petition, or protest. ~~(4-5-85)~~(\_\_\_\_)

**034. Appellant.** An employee, appointing authority, or applicant filing an appeal or a petition for review with the ~~Personnel~~ Commission. ~~(7-1-87)~~(\_\_\_\_)

**05. Appointing Authority.** "Appointing Authority" means the officer, board, commission, person or group of persons authorized by statute or lawfully delegated authority to hire, dismiss or otherwise significantly impact the employment status of individuals in any department. (Ref. Section 67-5302(3), Idaho Code) (\_\_\_\_)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

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**046. Appointment, Limited.** The appointment of a person to a classified, ~~non-career~~ position where the work is projected to be of limited duration, for which the person has qualified by examination. ~~(4-5-85)~~( )

**057. Appointment, Nonclassified.** The appointment of a person to a position exempt from the application of these rules by the provisions of Section 67-5303, Idaho Code. (7-1-87)

**068. Appointment, Original Or Initial.** For purpose of assigning veteran's preference points, the first appointment of time a person is hired by a state agency to any classified position in state service full-time position after attaining eligible veteran's status. (Ref. Section 65-506(3), Idaho Code and Rule 102.04) ~~(4-5-85)~~( )

**079. Appointment, Permanent.** The appointment of a person to a classified position who has been certified by the appointing authority to have successfully completed the required probationary period and whose employment is permanent, subject to removal or discipline only under the provisions of Chapter 53, Title 67, Idaho Code, and the rules of the Division of Human Resources and Idaho Personnel Commission. ~~(7-1-87)~~( )

**0810. Appointment, Probationary.** The appointment of a person to a classified position for which the person has qualified by examination but is serving a work trial period as a condition for certification to permanent appointment. (4-5-85)

**0911. Appointment, Project Exempt.** The appointment of a person to a nonclassified position established under federal grants, which by law restricts employment eligibility to specific individuals or groups on the basis of non-merit selection requirements. (Ref. Section 67-5303(m), Idaho Code) ~~(7-1-87)~~( )

**102. Appointment, Provisional.** The appointment of a person to a position in classified service for which the person has not qualified by examination pending the establishment of a register for the classification of such position. ~~(4-5-85)~~( )

**13. Appointment, Seasonal.** An appointment to a regular position in classified service with intermittent work periods. (Ref. Section 67-5302(31), Idaho Code) ( )

**144. Appointment, Temporary.** The appointment of a person to a nonclassified position which is not permanent in nature, and in which hours worked will not exceed one thousand three hundred eighty-five (1,385) hours during any twelve (12) month period for any one (1) department. Such appointments also may occur on a seasonal basis. (Ref Section 67-5302(33) Idaho Code) ~~(7-1-87)~~( )

**125. Certifiable Range.** An examination score and a rank on an eligibility register sufficiently high to be among the top ten (10) available names, plus names of all individuals with scores identical to the tenth ranking eligible, for certification to fill a position in the classification for which the register was established. ~~(3-30-01)~~( )

**136. Classification Specification.** A written statement of the purpose and responsibilities characteristic of a classification, which includes the title, principal accountabilities, and minimum qualifications of education, training and experience, abilities, knowledge, skill, and other qualifications required to perform the work of the classification. ~~(7-1-87)~~

**147. Classification Schedule.** All classification specifications utilized in classified service listed by title, classification code, and pay grade to which allocated. ~~(4-5-85)~~( )

**158. Classified Service.** That body of positions in state departments subject to Chapter 53, Title 67, Idaho Code, as defined therein and excludes temporary, project exempt, and nonclassified appointments. (7-1-87)

**169. Compensation Plan.** The overall system of salary administration for classified service including Sections 67-5309B and 67-5309C, Idaho Code; the classification and compensation schedules; Division of Human Resources and Idaho Personnel Commission rules and policies; and departmental policies governing employee pay. ~~(7-1-87)~~( )

**1720. Compensation Schedule.** The pay grades established by Section 67-5309C, Idaho Code, and associated rates of pay established in Rule 070.05. (3-30-01)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

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**~~1821.~~ Consultant.** An independent contractor who provides professional or technical advice, counsel, or service on a set fee basis. (Ref. Rule ~~010.30~~ 050) (7-1-87)( )

**~~1922.~~ Demotion.** The reduction of an employee from a position which the employee occupies in one (1) classification to a position in another classification with a lower entrance salary. ~~Demotion does not include returning an employee to a class in which the employee has permanent status for failure to complete the promotional probationary period.~~ (Ref. Rule 150.04) (7-1-87)( )

**203. Departmental Classification.** A classification of positions that is unique to a department. (7-1-87)( )

**214. Dismissal.** The separation of an employee from classified service with cause assigned by the appointing authority pursuant to Rule 190. (7-1-87)

**25. Due Process.** As related to Idaho's Personnel System for classified employees, the activities required to address an individual's constitutional right to notice and an opportunity to be heard before involuntary dismissal, suspension, demotion, reduction in pay, or transfer. Classified employees, who have successfully completed a probation period, are entitled to due process. ( )

**226. Earned Administrative Leave (EAL).** Paid leave for hours worked which exceed the regularly scheduled hours but do not result in overtime. These hours may accrue after hours worked and hours on paid leave exceed forty (40) hours in one (1) workweek. In the case of those employees engaged in law enforcement, correctional, and firefighting activities characterized by irregular shift work schedules, EAL hours may accrue after hours worked and hours on paid leave exceed one hundred and sixty (160) hours in a period of twenty-eight (28) consecutive days. (3-30-01)

**237. Employee.** Any person in the employ of a state department who is paid a salary or wages. (4-5-85)

**248. Employment History.** The information available to the public without the employee's consent in accordance with Section 9-340(C), Idaho Code, for every agency for which a current or former public official works, including the official reason(s) for separation from employment but not including accrued leave balances or usage. (3-30-01)

**259. Examination.** The application of written tests, oral interviews, performance tests, investigation, physical evaluation, evaluation of education and experience, or any other measure of job-related knowledge and ability, including performance in probationary periods. (4-5-85)

**2630. Factoring.** The assignment of Hay evaluation points to a classification in accordance with Section 67-5309B, Idaho Code, and Rule 074. (3-30-01)

**2731. General Classification.** A classification of positions that is common to more than one participating department. (7-1-87)( )

**2832. Good Cause.** The conduct of a reasonable person in the same or similar circumstances. (7-1-87)

**33. Hiring List.** A hiring list is a subset of a register (Rule 010.61). A hiring list consists of the top ten (10) individuals, plus all individuals tied for the tenth position, certified as eligible for a specific recruitment. ( )

**~~2934.~~ Hours Worked:** (7-1-87)

**a.** Those hours actually spent in the performance of the employee's job, excluding holidays, vacation, sick leave or other approved leaves of absence, and excluding on-call time. (Ref. Rule 010.40) (3-30-01)

**b.** Travel time shall be compensated pursuant to policy set forth by the Board of Examiners. (3-30-01)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

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**c.** Attendance at lectures, meetings, training programs and similar activities outside of the employee's regular working hours when attendance has been directed by the appointing authority or designee. (5-15-85)

**305. Incumbent.** Any person holding a classified or non-classified position in state service. (7-1-87)

**346. Independent Contractor.** Any person, firm, or corporation meeting the Internal Revenue Service's test for an independent contractor or a self-employed person. (Ref. Rule 010.4821) (~~3-30-01~~)( )

**327. Interested Person.** A person or department directly affected by a rule, statute or department action or inaction. (6-30-78)

**338. Intoxication.** Being under the influence of alcohol, or misuse of medication or controlled substances. (Ref. Rule 190.01.f.) (3-30-01)

**349. Involuntary Transfer.** A significant change in work location, shift and/or organizational unit made as a result of a management decision as opposed to an employee's request or agreement to transfer. (3-30-01)

**3540. Layoff.** An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (4-5-85)

**3641. Leave Of Absence With Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall be compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following leaves: vacation leave, sick leave, special leave situations, and compensatory time off for overtime worked. (3-30-01)

**3742. Leave Of Absence Without Pay.** A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee shall not be compensated. (7-1-87)

**43. Light Or Limited Duty.** A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. ( )

**3844. Merit Increase.** The advancement of an employee's compensation in accordance with Section 67-5309C(b), Idaho Code. (7-1-87)

**3945. Minimum Qualification Specialty.** A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (~~7-1-93~~)( )

**406. New Classification.** A classification that is not essentially described by any existing job classification. (~~7-1-94~~)( )

**447. Occasional Or Sporadic Work.** Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

**428. On-Call Time.** Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the department where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (3-30-01)

**49. Organizational Unit (Layoff Unit).** A smaller geographic, programmatic, or other identified subdivision of a department determined by the appointing authority and approved by the administrator for the purpose of conducting a reduction in force (Rule 140). ( )

**4350. Overtime.** Those hours defined as such in Section 67-5302(19), Idaho Code, excluding any time, such as traded time and occasional or sporadic work, that is specifically excluded from the overtime calculation by federal law. (7-1-87)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

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**4451. Pay Line Exception.** A temporary assignment of pay grade, pursuant to Section 67-5309C(b)(i), Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B(a), Idaho Code, as approved by the administrator. (3-30-01)

**452. Position, Classified.** A position subject to Chapter 53, Title 67, Idaho Code, and these rules in which one (1) person is hired as a full-time or part-time employee; or in which two (2) or more persons share in the aggregate of the position. (7-1-87)

**4653. Promotion.** The advancement through the competitive process of an employee with permanent status from a position which he or she occupies in one (1) classification to a position in another classification having a higher entrance salary paygrade. (4-5-85)(\_\_\_\_)

**54. Promotion, In-Grade.** To reflect unique agency organization design, an agency may choose to request an internal competitive process to recognize the advancement of an employee with permanent status from a position which he or she occupies in one classification to a position in another classification having greater Hay points, more responsibility, or a unique specialty area, but within the same pay grade. With the approval of the administrator, an in-grade promotion will be treated in all regards as a promotion. (\_\_\_\_)

**4755. Rating/Job Point Factoring.** The number of Hay evaluation points assigned to a classification in accordance with Rule 074. (7-1-87)(\_\_\_\_)

**4856. Reasonable Accommodation.** An adjustment made to a job and/or work environment that enables a qualified individual with a disability to perform the essential functions of the position and would not cause undue hardship on the operation of the department. (Ref. Rule 190.01.c.) (7-1-87)

**4957. Reclassification Of A Position.** A change of a position from the classification to which it is assigned to another classification. (3-30-01)(\_\_\_\_)

**508. Reclassification Of An Employee.** Means a change in the classification assigned to the employee to properly reflect the duties and responsibilities assigned to that employee by an appointing authority. (3-30-01)

**59. Recruitment.** The process of seeking applicants for employment. (\_\_\_\_)

**5460. Reduction In Pay.** A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (7-1-94)(\_\_\_\_)

**5261. Register.** A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established. (4-5-85)(\_\_\_\_)

**5362. Reinstatement.** The reappointment of a former or current classified employee pursuant to Rule 1254. (7-1-87)(\_\_\_\_)

**54. Relief Shift Employee.** ~~An employee whose regular assignment is to work during the absences of others. (Ref. Rule 075.01.b.)~~ (12-10-90)

**5563. Resignation.** The voluntary quitting or abandonment of state employment, excluding retirement. (Ref. Rule 244) (6-11-89)(\_\_\_\_)

**564. Respondent.** The party whose interests are adverse to those of the appellant. (7-1-93)

**5765. Status.** The character of an employee's appointment. (7-1-77)

**5866. Suspension.** An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Rule 190. (7-1-87)



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

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~~596~~**7. Termination.** The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority pursuant to Rule 1502. ~~(3-30-01)~~(\_\_\_\_)

**608. Traded Time.** Those hours an employee agrees to substitute for another employee during scheduled hours of work, where both work in the same capacity, the agreement to substitute is solely at the employees' option, and the agreement is approved by the agency by whatever manner is customary. (7-1-87)

~~64~~**2. Transfer.** A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. ~~(4-5-85)~~(\_\_\_\_)

~~62~~**70. Underfill.** The filling of a classification of position with an employee in a classification of lower pay grade to accommodate a training period as approved by the administrator. ~~(4-5-85)~~(\_\_\_\_)

~~63~~**71. Workweek.** A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073) (12-10-90)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **020. VETERANS PREFERENCE.**

Preference must be given to qualified veterans who are residents of Idaho in all employment actions including hiring, transfer, promotion, and retention except for confidential secretarial positions. (3-30-01)

**01. Veteran Defined** (For Preference Purposes). Any person who has served in the active service of the armed forces of the United States during any period of war recognized by the United States Department of Veterans Affairs for the purpose of awarding federal veterans benefits and who has been discharged from service under honorable conditions. (Ref. Sections 65-509 and 65-510, Idaho Code) (3-30-01)

**02. Preference Points.** Veterans and disabled veterans who are residents of the state of Idaho, and their widows or spouses, when qualified under state law shall have additional points added to a passing score and placed on the register in accordance with the provisions set forth in Rule 102. (Ref. Rule 093.03, and Sections 65-502, 506, 507, and 67-5309(f), Idaho Code) (3-30-01)

**03. Promotion/Transfer Consideration.** Qualified veterans shall be given additional consideration in promotion and transfer decisions. When candidates are considered to be equal based on valid job related factors, veterans shall be preferred. (Ref. Sections 65-502, 65-504, and 67-5309, Idaho Code) (3-30-01)

**04. Retention.** War veterans (as defined in Chapter 5, Title 65, Idaho Code) shall receive ~~the equivalent of three (3) years of satisfactory service in additional points awarded towards the total calculation of retention points~~ preference for retention in a reduction of work force determination. (Ref. Rule 140) ~~(3-30-01)~~(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **022. PROHIBITED QUESTIONS.**

All questions on applications and examinations shall be based on valid job requirements. Questions which impermissibly discriminate on the basis of race, national origin, color, sex, age, religion, disability, political affiliation, or veteran status are prohibited. Questions regarding veteran status for compliance with veterans' preference are permitted. (Ref. Rule 020) ~~(3-30-01)~~(\_\_\_\_)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

**(BREAK IN CONTINUITY OF SECTIONS)**

**024. CONFLICT OF INTEREST AND PERSONAL CONDUCT.**

The maintenance of a high standard of honesty, ethics, impartiality, and conduct by state employees is essential to ensure proper performance of state business and strengthen the faith and confidence of the people of Idaho in the integrity of state government and state employees. All appointing authorities shall establish such policies and standards necessary to implement Rule ~~024~~273. (3-30-01)(\_\_\_\_)

**0265. NEPOTISM.**

No employee shall work under the immediate supervision or management chain-of-command of a ~~supervisor who is~~ a spouse, child, parent, brother, sister or the same relation by marriage. Similar relationships such as significant others, may also create a conflict of interest and should be addressed by agency policy. (Ref. Section 18-1359(e), Idaho Code) (8-1-81)(\_\_\_\_)

**0256. DUAL EMPLOYMENT.**

There shall be no conflicting hours of work when a classified employee is employed by more than one (1) state department. The employee shall obtain approval from all appointing authorities concerned prior to beginning dual employment. (4-5-85)

**027. -- 039. (RESERVED).**

**040. NONCLASSIFIED EMPLOYEES SUBJECT TO CLASSIFIED SERVICE SUBSEQUENT TO APRIL 5, 1985.**

The provisions of this rule shall apply to all employees exempt from classified service who, subsequent to April 5, 1985, become subject to the provisions of Chapter 53, Title 67, Idaho Code. (3-30-01)

**01. Probationary Period.** A nonclassified employee brought under classified service under Rule 040 must serve a probationary period appropriate for the classification assigned to the employee's position. Service uninterrupted by resignation, termination, or dismissal immediately prior to inclusion in classified service shall be considered as probationary service. (3-30-01)(\_\_\_\_)

**02. Certification To Permanent Status.** An employee who has completed a probationary period as required above and who is certified in writing by the appointing authority as serving satisfactorily shall be certified to permanent status without examination. (3-30-01)

**03. Examination.** An employee who has not completed a probationary period as required above shall be required to pass an examination for the classification assigned to the employee's position. Prior to passing such examination, the employee's status shall be provisional. (3-30-01)(\_\_\_\_)

**04. Separation.** An employee who is not certified by the appointing authority as serving satisfactorily shall be separated from state service no later than thirty (30) calendar days after inclusion in classified service. An employee who fails to pass the examination or had an opportunity to have such examination and not availed himself or herself thereof shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (3-30-01)

~~**05. Salary.** The salary of an employee, under these rules, shall be adjusted to the pay rate in the pay grade allocated to the employee's class that represents no salary loss from the employee's base rate in nonclassified status. (3-30-01)~~

**065. Salary Protection.** If the salary of an employee, brought under classified service under Rule 040, is greater than the highest rate of the pay grade of the classification to which assigned, the employee's salary shall ~~not~~ be ~~reduced~~ protected; ~~but he or she shall thereafter receive no salary increase, except for bonuses provided under Section 67-5309C, Idaho Code to the maximum of their new paygrade.~~ (3-30-01)(\_\_\_\_)

**041. -- 049. (RESERVED).**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION** **Human Resources and Personnel Commission Rules**

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#### **050. CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.**

Nothing in these rules shall prohibit the use of independent contractors or consultants who are paid on a fee basis for legal, medical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state department. (7-1-94)

**01. No Fee Basis.** No position in the state classified service shall be filled by a consultant or independent contractor on a fee basis. (8-1-81)

**02. Limited Use Only.** Individuals employed through contracts with temporary services or professional staffing agencies shall be utilized only for short-term situations. (3-30-01)

**03. Conflict Of Interest/Nepotism.** Agency policies regarding conflict of interest/nepotism apply to awarding work to consultants and contractors. See Rule 024 and 025. ( )

**04. Not To Be Treated As Employees.** Independent contractors, their staff or consultants shall not be treated as employees. Appointing authorities must comply with current Internal Revenue Service guidance on independent contractor and employee definitions. ( )

**051. -- 059. (RESERVED).**

#### **060. ADOPTION OF CLASSIFICATION SCHEDULE.**

~~Adoption of Compensation Schedule.~~ The Division of Human Resources, after consulting with each appointing authority, shall develop, adopt, and make effective a classification schedule consisting of classification specifications allocated to various pay grades in the compensation schedule for all positions based on an analysis of the duties and responsibilities of representative positions. (4-5-85)( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **063. REVIEW OF CLASSIFICATION SCHEDULE.**

The administrator, in cooperation with the various appointing authorities, shall ~~review the classification schedule to~~ ensure the appropriateness and accuracy of ~~existing~~ classification specifications. (7-1-93)( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **065. APPROVAL OF NEW, REVISED AND DELETED CLASSIFICATIONS.**

**01. New And Refactored Classifications.** New classifications of work and revised classifications ~~shall be submitted~~ require approval by both the administrator ~~to~~ and the Division of Financial Management administrator ~~for approval~~ when there is a fiscal impact. (3-30-01)( )

**02. Revised And Deleted Classifications.** Revised classifications with no fiscal impact and classifications deleted from the classification schedule require approval only of the administrator. (7-1-94)( )

#### **066. ABOLISHMENT OF POSITIONS.**

An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 1478. (7-1-87)( )

#### **067. RECLASSIFICATION OF POSITIONS.**

**01. Procedure.** Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by Division of Human Resources' staff of the duties and responsibilities assigned by appointing authorities to specific positions. An incumbent occupying a reclassified position shall be properly

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classified by an appointing authority within thirty (30) calendar days of being notified by the administrator that the duties and responsibilities assigned to the position are not properly classified. (4-5-85)

**02. Effective Date.** Reclassifications of positions shall not be effective until they are approved by the administrator, but may be retroactive to the beginning of the pay period during which approval is granted. Reclassification of an employee shall not precede the effective date of the reclassification of the position. (3-30-01)

**03. Violations.** *Upon a determination of the administrator that an incumbent employee is improperly classified, the administrator shall notify the employee, the appointing authority, and the state controller's office that the employee is being compensated in violation of these rules. (Ref. Section 67-5312, Idaho Code) (7-1-87)*

#### **068. VIOLATIONS.**

Accurate position classification is the foundation for providing equal pay for equal work, identification of actual work performed, fair employment and equal opportunity for promotions, and equitable compensation. Upon the administrator's determination that classification rules have been violated, the appointing authority will be informed and provided thirty (30) days to take actions necessary to correct the situation or submit a corrective action plan to the administrator. If these actions do not occur, the administrator will inform the employee, the appointing authority, and the state controller that the employee is being compensated in violation of these rules. (Ref. Sections 67-5308 and 67-5312, Idaho Code) ( )

~~068.~~—**069. (RESERVED).**

#### **070. COMPENSATION OF EMPLOYEES.**

**01. The Hay System.** The Division of Human Resources will use the Hay method of point factoring to determine the relative value of each classification, and as a basis for internal pay equity. (Ref. Section 67-5309B, Idaho Code) ( )

**042. Conduct Of Salary Surveys.** The Division of Human Resources shall conduct or approve salary surveys, to determine salary ranges that represent relevant competitive labor market average rates for all Hay point factored positions in the classified service. (7-1-94)( )

**023. Relevant Labor Markets** ~~For Classifications Up To Two Hundred Seventy Points.~~ For classifications up to two hundred seventy (270) points, the comparator market shall consist of the Idaho in-state market, representing private and public employers in the state. Labor markets used for wage comparison shall be based on the projected hiring market for specific job classifications. Consultation with various appointing authorities will also contribute to labor market determination. (7-1-94)( )

**a.** When the competition for employees is the local area market, the comparison will be made from a survey representing public and private employers in the state of Idaho. ( )

**b.** For jobs with more regional competition or those with no private counterparts, the comparator market will be state governments, including, but not limited to, Arizona, Colorado, Montana, Nevada, Oregon, Utah, Washington, and Wyoming. ( )

**c.** Recruitment and retention issues will be used to determine the need for additional special market surveys. Other surveys may be conducted or obtained to address specialty areas. ( )

**03. Relevant Labor Markets** ~~For Classifications From Two Hundred Seventy One To Five Hundred Fifty Points.~~ For classifications from two hundred seventy one (271) to five hundred fifty (550) points, the comparator market shall be the Idaho in-state market, representing private and public employers, and a group of nine (9) Western State governments, consisting of Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming. (7-1-94)

**04. Relevant Labor Markets** ~~For Classifications Above Five Hundred Fifty Points.~~ For classifications above five hundred fifty (550) points, the comparator market is the nine (9) Western State governments identified in Rule 070.03, and other relevant markets. (3-30-01)

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**054. Salary Schedule.** The administrator shall adopt the salary ranges for the pay grades in Section 67-5309C, Idaho Code, ~~which normally represents eighty-five percent (85%) to one hundred twenty-five percent (125%) of the payline policy formulas in Section 67-5309B, Idaho Code,~~ in a public meeting after notice, and a current salary schedule shall be ~~provided to~~ made available to the public and all appointing authorities. (3-30-01)(\_\_\_\_)

**065. Compensation Plan.** Significant changes to components of the compensation plan shall be presented in a public meeting after notice. (3-30-01)

### **071. COMPENSATION PLAN REVIEWS.**

**01. ~~Review OF Compensation Schedule.~~** The Division of Human Resources in cooperation with the various appointing authorities shall conduct reviews of the compensation plan. (3-30-01)

**02. ~~Affirmation Of Factoring.~~** ~~In the review of classifications, the factoring of a class may be affirmed if there has been no significant change in the duties of the classification and the factoring appears to be correct.~~ (7-1-93)

### **072. OPERATION OF COMPENSATION PLAN.**

**01. Authorized Pay Rate.** No employee in the state classified service shall be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification, except as provided in ~~Rule 042, and Rules 040.06, and 072.06, and~~ Section 67-5309C(b)(i), Idaho Code. (3-30-01)(\_\_\_\_)

**02. ~~Entrance Starting Salary.~~** The ~~entrance starting~~ salary for a new appointee ~~shall fall~~ may be anywhere within the paygrade assigned to the employee's classification ~~except when a payline exception is necessary to hire a particularly qualified individual~~ and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (Ref. Section 67-5309C(b)(i), Idaho Code) (3-30-01)(\_\_\_\_)

**03. Payline Exceptions.** Temporary assignments to a new pay grade may be made by the administrator pursuant to Section 67-5309(c)(b)(i), Idaho Code. Such assignments shall apply to an entire classification for the purpose of recruitment or retention and shall be reviewed annually to determine the need for continuance. (3-30-01)(\_\_\_\_)

**04. Salary After Reappointment From Layoff.** An employee appointed ~~from a layoff register~~ by the agency that laid them off (Rule 101.01 and Rule 1456) shall be paid in the current pay grade for the classification to which reappointed or at the same payrate he or she received immediately preceding layoff, whichever is greater but not to exceed the maximum of the current paygrade. (3-30-01)(\_\_\_\_)

**05. Salary Upon Transfer.** (7-10-88)

**a.** A transfer between departments (Rule 1265) in the same classification or one (1) of equal pay grade does not require a change in the employee's salary, but a lower or higher rate may be negotiated between the employee and the appointing authority. (3-30-01)(\_\_\_\_)

**b.** If the transfer is to a classification of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority within the lower pay grade. (3-30-01)(\_\_\_\_)

**06. Salary Upon Reinstatement.** (7-10-88)

**a.** ~~Except as otherwise provided in the following rule~~ Unless related to reemployment after a lay off, the salary of a reinstated employee (Rule 1254) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. (3-30-01)(\_\_\_\_)

**07. Salary Upon Downward Reassignment.** When a classification is reassigned downward the employee's salary will be protected to the maximum within the new paygrade. ~~If a particularly qualified employee's salary is above the highest rate of the new paygrade, the appointing authority may petition the administrator to~~

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~~"freeze" the employee's salary.~~

~~(3-30-01)( )~~

**08. Salary Upon Return From Military Duty.** An employee who returns to state service from active military duty in accordance with the provisions of Sections 65-511 or 65-512, Idaho Code, shall be paid at the comparable rate in the current pay grade for the classification to which he or she was assigned prior to leaving for military service. (3-30-01)

### **073. CALCULATION OF PAY.**

**01. Standard Calculation Of Pay.** For other than police, correctional officers, or fire employees, pay shall be calculated in the following order: (3-30-01)

- a. Holiday pay; (12-10-90)
- b. All hours worked on a holiday as overtime; (12-10-90)
- c. All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work and traded time; (12-10-90)
- d. Vacation, sick and other paid or unpaid leaves; and (12-10-90)
- e. All remaining hours worked at the employee's regular rate of pay, with the optional use of earned administrative leave. Shift differential pay shall be calculated according to Rule 075 and paid in addition to any other compensation. (Ref. Sections 67-5302(19), 67-5329, Idaho Code; Rules 010.394 ~~through~~ 010.41, 010.5842, 010.48, 010.50 and 073.03 ~~and 250~~) ~~(12-10-90)( )~~

**02. Calculation Of Pay For Police, Correctional Officers, And Fire Employees.** Police, Correctional Officers, and fire employees on a twenty-eight (28) day work schedule shall be compensated as described above, except that overtime shall be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of forty (40) hours in a workweek, and earned administrative leave shall be calculated based on eighty (80) hours in a biweekly pay period instead of on a weekly basis. (3-30-01)

### **03. Holiday Pay Calculation.** (7-1-87)

a. All classified employees of like classification, shall be treated equally with reference to hours of employment, holidays, and vacation leave. (Ref. Section 67-5326, Idaho Code) (3-30-01)

b. A full-time employee shall receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be determined, the employee shall receive eight (8) hours of holiday pay. An employee must receive ~~pay either the scheduled workday before or after the holiday in order~~ some paid leave, wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. ~~(3-30-01)( )~~

c. A part-time employee who has a regular work schedule shall be paid for a holiday ~~in~~ in the same proportion to eight (8) hours that the hours the employee normally works in a week bear to forty (40), which for calculation purposes converts to two tenths (.20) x hours normally worked; ~~or 2) to the extent the employee would have worked had the holiday been a regular workday. The use of method 1) or 2) is discretionary with the appointing authority.~~ ~~(7-1-87)( )~~

d. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, ~~an appointing authority may substitute the following method for 1) above:~~ the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs bear to forty (40). ~~(4-5-85)( )~~

e. Schedules resulting in holiday time off in excess of eight (8) hours must only be approved in such a way as to treat all members of the affected job classification equally. Appointing authorities may suspend flex schedules during holiday weeks or may grant administrative leave or otherwise adjust work schedules to ensure

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equity. (3-30-01)

**04. Reduction Of Salary.** The salary of an employee receiving more than the lowest rate of the pay grade for his or her classification may be reduced to a lower rate within the pay grade by the appointing authority for disciplinary reasons enumerated in Rule 190. (~~7-1-94~~)(    )

**05. Temporary Merit Increases.** Temporary merit increases shall not be calculated retroactively. (Ref. Section 67-5309C(b)(ii), Idaho Code) (7-10-88)

**06. Department Salary Administration Policies.** Each department shall adopt and file with the administrator current salary administration policies for the following actions to insure fairness and equity for all employees within that department: (3-30-01)

- a. Merit increases and bonuses (Section 67-5309C(b), Idaho Code, and Rule 073.05.); (7-1-94)
- b. Reclassification (Rule 067); (4-5-85)
- c. Demotions (Rule ~~180~~ 179); (~~4-5-85~~)(    )
- d. Intradepartmental transfers (Rule ~~126~~ 5); (~~4-5-85~~)(    )
- e. Failure to complete promotional probationary periods (Rule ~~152.03~~ 150.); (~~4-5-85~~)(    )
- f. Promotions (Rule ~~170~~ 169); (~~4-5-85~~)(    )
- g. On-call time (Rule 010.408). (~~4-5-85~~)(    )

**07. Salaries For Temporary Appointments.** Except as provided by the following rule, salaries for employees hired under temporary and project-exempt appointments will be governed by Section 59-1603, Idaho Code. (4-5-85)

### **074. ASSIGNMENT OF HAY EVALUATION POINTS.**

**01. Assignment To Pay Grade.** Pursuant to Sections 67-5309B and C, Idaho Code, the pay grade to which a classification is assigned shall be determined by the number of Hay evaluation points assigned to each classification. (~~3-30-01~~)(    )

**02. Guide Charts.** The Hay evaluation points assigned to a classification shall be the composite numerical value of points factored from the Hay guide charts. (~~3-30-01~~)(    )

**03. Factoring Benchmarks.** The factoring benchmarks correlated by Hay Management Consultants shall be used in conjunction with the Hay Guide Charts to determine the number of points assigned to a classification. (~~3-30-01~~)(    )

**04. Factoring Process.** Hay evaluation points shall be assigned to a classification through the following methods, which may be used separately or in combination with the others: (~~3-30-01~~)(    )

a. Informal Agreement. The appointing authority presents the new or revised classification and factoring recommendation informally to the administrator of the Division of Human Resources or designee and there is agreement on the points assigned. (~~3-30-01~~)(    )

b. Factoring Session. The administrator shall determine the membership of a factoring committee and schedule a factoring session in which the appointing authority or designee may present both oral and written information concerning the classification to be factored. The factoring committee shall assign Hay evaluation points in accordance with Rule 074 and the administrator shall notify the appointing authority in writing of the decision of the factoring committee. The appointing authority may request an issue conference with the factoring committee and

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present their perspective on the assigned points. The factoring committee may affirm or modify the assigned points. The administrator will provide a letter to the appointing authority stating the outcome of the issue conference.

(3-30-01)( )

c. Hay Management Consultants. After consultation with the appointing authority, the administrator may refer the classification to Hay Management Consultants for a factoring analysis.

(3-30-01)( )

**05. Approval.** After consultation with the administrator of the Division of Financial Management for approval regarding potential fiscal impacts, the administrator of the Division of Human Resources shall have final approval of the Hay evaluation points assigned to each classification. These points are final unless appealed in accordance with Section 67-5316, Idaho Code.

(3-30-01)( )

### **075. SHIFT DIFFERENTIAL.**

**01. Eligibility.** (12-10-90)

a. Shift differential compensation shall be paid if fifty percent (50%) or more of an employee's assigned hours in a workweek occur between 6 p.m. and 7 a.m. Leave hours taken shall be regarded as having been assigned during the same hours that the employee would have worked.

(12-10-90)

b. Shift differential compensation shall be paid for all hours worked by an relief shift employee whose primary responsibility is to work in place of an absent employee and, whose assigned schedule varies from nights, days, and swing during a forty (40) hour work week.

(12-10-90)( )

**02. Shift Pay Rate.** Shift differential compensation shall be paid at the rate of five percent (5%).

(7-1-94)

**03. Hours Paid At Shift Rate.** If an employee qualifies for shift differential pay during a workweek, the shift rate shall be calculated for all hours reported in that week, including holiday pay, overtime and leave taken. The resulting amount of shift differential pay shall be included in the compensation for that pay period.

(12-10-90)

**04. Ineligible Employees.** Employees who are ineligible for cash compensation and compensatory time for overtime work are ineligible for shift differential compensation. (Ref. Section 67-5329(1), Idaho Code)

(3-30-01)

**05. Multiple Positions.** For an employee who has more than one (1) position, eligibility for shift differential shall be determined by position.

(2-6-92)

### **076. ALTERNATIVE WORK SCHEDULES AND LOCATIONS.**

An appointing authority may allow alternative work schedules and locations including flexible schedules, job-sharing, and telecommuting when determined to be in the best interests of the state and the employee. Internal policies on such options must be published for all employees and filed with the administrator. If applicable, agency policies must address:

( )

a. Conditions of participation; ( )

b. Equipment use and provision; ( )

c. Workers compensation and liability issues; and ( )

d. Confidentiality. ( )

### **077. BONUSES.**

**01. Performance Bonuses.** Up to a total of one thousand dollars (\$1,000) may be awarded each fiscal year, in recognition of excellent performance. A memo documenting such performance should be provided to the employee and placed in their personnel file. (Ref. Section 67-5309C(b)(iii), Idaho Code)

( )



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**02. State Resource Savings Bonuses.** Up to a total of one thousand dollars (\$1,000) may also be awarded each fiscal year, in recognition of an employee's idea to save state resources. Each agency will develop an internal procedure to provide for prompt consideration and distribution of awards. (Ref. Section 67-5309C(b)(iv), Idaho Code) ( )

**a.** Suggestions, that when implemented result in significant savings, may result in a larger bonus, but such amounts must be approved by the Board of Examiners. ( )

**b.** Suggestions aimed at saving money outside the employee's state agency should be submitted to the employee's agency first and then routed to the Division of Human Resources for centralized coordination and tracking. The Division of Human Resources will forward the suggestion to the agency able to address implementation. ( )

**0768. -- 079. (RESERVED).**

### (BREAK IN CONTINUITY OF SECTIONS)

#### **082. METHODS OF RECRUITMENT.**

For the purpose of establishing eligibility registers, there are three (3) methods of recruitment: open competitive, ~~and~~ department promotional, or statewide promotional. The scope of advertising and outreach for each approach will vary with agency preference, needs, and labor market strategies. (3-30-01)( )

#### **083. ~~LOCATION OF EXAMINATIONS (RESERVED).~~**

~~When the administrator determines it to be in the best interest of the personnel system, examinations may be held in specific areas of the state, by approved proctors outside the state of Idaho, or via electronic communications.~~

(3-30-01)

#### **084. ANNOUNCEMENT OF ~~EXAMINATIONS~~ RECRUITMENT.**

**01. Distribution Of Announcements.** The announcement of each open-competitive ~~examination recruitment~~ shall be supplied to the appropriate local offices of the Idaho Department of Labor and to other locations determined necessary by the administrator to develop a register of eligibles. If the open-competitive ~~examination recruitment~~ has been requested by the appointing authority in lieu of a promotional ~~examination recruitment~~, it shall be his or her responsibility to post or otherwise distribute the announcement so it can be seen by all employees of that department prior to its expiration date. (Ref. Rule 17069-01.b-) (4-5-85)( )

**02. Posting Of Promotional Announcements ~~Within Departments~~.** The announcement for each promotional ~~examination recruitment~~ shall be supplied to the appointing authority of each affected department. It shall be his or her responsibility to post, electronically communicate, or otherwise distribute such announcement so it can be seen by all employees in the department prior to the expiration date. (4-5-85)( )

#### **085. CONTENT OF ANNOUNCEMENTS.**

Each announcement ~~of an examination~~ shall contain the title of the classification, characteristic duties and responsibilities, salary, minimum qualifications, nature of ~~the~~ examination, ~~relative weights of the various portions of the examination~~, qualifying score, closing date, equal opportunity employer, veterans preference and other pertinent information. (4-5-85)( )

#### **086. APPLICATIONS.**

**01. Form.** All applications shall be filed ~~on~~ in the form prescribed by the administrator. ~~A separate form must be filed for each class for which application is made unless otherwise prescribed in the announcement.~~ (8-1-81)( )

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**02. Filing Of Applications.** Applications are currently accepted by internet application system, mail, personal delivery, electronic mail and FAX to the Division of Human Resources. ~~Whenever applications are filed by electronic mail or FAX, the original shall be deposited in the mail the same day or hand delivered the following day.~~ An application will also be considered timely if any Job Service or agency human resources office receives and date stamps it by the closing date, notifies the Division of Human Resources, and ensures that it is delivered to the Division of Human Resources by close of the next business day. (3-30-01)(\_\_\_\_)

**03. Application By Military Personnel.** An application ~~for examination~~ will be accepted after the closing date of the announcement from a person who was serving in the armed forces, or undergoing hospitalization of no more than one (1) year following discharge, during any period in which the ~~examination~~ announcement was open. The application must be submitted within one hundred twenty (120) days of the applicant's separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of ~~the an~~ examination. The applicant must be a resident of Idaho when application is made. (Ref. Sections 65-502 and 67-5309(f), Idaho Code) (4-5-85)(\_\_\_\_)

**04. ~~Examination Of~~ Application By Disabled Veterans.** A disabled veteran may file an application ~~for examination~~ at any time for any classification for which the Division of Human Resources maintains a register or for which a register is about to be established, provided he or she has not already been examined twice for the same classification, does not have current eligibility on that register, or is not serving in a classification in the same or higher pay grade as the classification for which application is made. The applicant must be a resident of Idaho when application is made. (Ref. Sections 65-502, 65-507 and 67-5309(f), Idaho Code) (4-5-85)(\_\_\_\_)

**05. Promotion Of Entrance Probationary Employee.** Any classified employee on entrance probation may file an application for a promotional opportunity ~~but may not be~~ and placed on a register ~~but may not be appointed~~ until permanent status has been attained. Although on a register, as probationary, the employee's name does not count in the top ten (10) candidate ranking. (Ref. Rules 16059.01. and 17069.03.) (7-1-87)(\_\_\_\_)

**06. Disclosure Of Information For Hiring Purposes.** By submitting an application, an individual is deemed to authorize disclosure of confidential information to state agencies for purposes of screening, testing, interviewing and hiring. (Ref. Section 9-340C, Idaho Code). (12-10-90)

### **087. DENIAL OF APPLICATIONS.**

**01. Basis.** The administrator may choose not to process an application ~~for examination~~ if: (3-30-01)(\_\_\_\_)

**a.** The applicant will not meet the minimum qualifications specified in the announcement at the time set for appointment. (3-30-01)

**b.** The application was not received on or before the closing date for acceptance of applications. (3-30-01)

**c.** A background investigation or examination of an applicant discloses that the applicant committed an act which is cause for dismissal as provided in Rule 190. (3-30-01)

**02. Further Actions.** When any such finding under Rule 087.01 is made, the administrator may deny the application and may cancel the eligibility of the applicant if he or she has already attained a place on the eligibility register. If the applicant has already received appointment, the administrator may take appropriate action to have the employee removed from the position. (3-30-01)

**088.—089. (RESERVED).**

### **089. LOCATION OF EXAMINATIONS.**

To enhance recruiting efforts, agencies may request examinations be held in specific areas of the state, by approved proctors outside the state of Idaho, or via electronic communications. (\_\_\_\_)

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### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **093. CONDUCT AND RATING OF EXAMINATIONS INCLUDING VETERANS' PREFERENCE POINTS.**

**01. Designation Of Examiners.** The examinations shall be conducted and rated by persons designated by the administrator. (8-1-81)

**02. Scoring Of Examinations.** Each examination shall be rated for final scores on the basis of one hundred (100) point maximum. The Division of Human Resources' staff shall use appropriate statistical and professional techniques and procedures in determining passing points and final scores. (3-30-01)

**03. Veterans<sup>2</sup> Preference.** (~~4-5-85~~)(    )

**a.** Veterans<sup>2</sup> and disabled veterans<sup>2</sup> points, when applicable under state law, shall be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Veterans<sup>2</sup> preference points are only applicable when the applicant is a resident of Idaho. (Ref. Sections 65-502 and 67-5309(f), Idaho Code) (~~4-5-85~~)(    )

**b.** Veterans<sup>2</sup> and disabled veterans<sup>2</sup> preference points shall not be added to the raw score in order to achieve a passing score. (~~4-5-85~~)(    )

**04. Failing Score.** Failure in any part of the examination may disqualify the applicant in the entire examination and from having his or her name placed on the register. Final scores shall be computed in accordance with weights assigned the individual factors in the total examination. (4-5-85)

**05. Use Of Alternate Announcement.** An examination may be rated for another classification under current announcement at the discretion of the administrator. (~~4-5-85~~)(    )

**06. Waiver Of Examination.** Notwithstanding other provisions in these rules, when ten (10) or fewer applications are received from applicants meeting minimum qualifications for a position announcement and there is no existing register, the announced examination may be waived by the administrator. These Applicants meeting minimum qualifications shall be eligible for appointment and their placement on the register shall take into account veterans' preference. When using registers developed in this manner, appointing authorities shall provide the opportunity for placement interviews for each applicant on the register. (~~3-30-01~~)(    )

**07. Examination Upon Reclassification.** An employee occupying a position which is reclassified (Rule 067.01) may be required at the discretion of the administrator to pass an examination for the classification to which reclassified. (~~4-5-85~~)(    )

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **095. NOTICE AND RECORD OF RESULTS OF EXAMINATION.**

All competitors shall be notified ~~by mail~~ of their final scores electronically or by mail. The records of scores shall be held as official records for the life of the resulting eligibility registers. (~~3-30-01~~)(    )

#### **096. REVIEW AND APPEAL.**

**01. Review Of Examination Content And Scoring Material.** Any competitor, or his/her representative authorized in writing, shall be permitted to inspect his/her own papers and records, except examination content and scoring material, upon application in person at the office of the Division of Human Resources in Boise during business hours. Alternative arrangements are available for competitors located outside of Boise. Review shall be limited to the time allowed for appeal of examination scores. (~~3-30-01~~)(    )

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**02. Appeal Of Examination Score.** Any competitor, by written request to the administrator, may appeal his or her examination score within thirty-five (35) calendar days after the notice was ~~mailed~~ sent to such competitor. The administrator shall review the test, may change the score, and may take any other action necessary to insure the integrity and quality of the testing process. When such review discloses error affecting the scores of other competitors, the review and adjustment shall include their scores. The administrator shall provide a written explanation to competitors whose scores are affected by the action taken. ~~(3-30-01)~~(\_\_\_\_)

#### **097. ALTERNATIVE EXAMINATION PROCESS FOR PERSONS WITH DISABILITIES.**

**01. Conditions For Eligibility.** Notwithstanding other provisions in these rules, an agency may appoint an individual directly into entrance or promotional probationary status in a classification if the Division of Vocational Rehabilitation, the Idaho Commission for the Blind, or the Industrial Commission certifies the following: ~~(7-1-93)~~(\_\_\_\_)

**a.** That the individual has a physical or mental impairment that substantially limits one (1) or more major life activities, as further defined under state or federal law; (3-30-01)

**b.** That the individual meets the minimum qualifications of the classification and is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and ~~(7-1-93)~~(\_\_\_\_)

**c.** That the individual lacks competitiveness in the examination process due to the disability. (Ref. Section 67-5309(e), Idaho Code.) ~~(3-30-01)~~(\_\_\_\_)

**02. Concurrence Required.** The certification shall be made with the concurrence of Division of Human Resources. (3-30-01)

**03. Probationary Period.** The probationary period shall be the sole examination for individuals certified under this alternative examination process. (Ref. Rule 150.) (7-1-93)

#### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **101. TYPES OF ELIGIBILITY REGISTERS.**

There are four (4) kinds of eligibility registers: (4-5-85)

**01. ~~Layoff~~ Reemployment Preference Registers.** ~~Departmental layoff registers~~ Registers with reemployment preference shall for a given classification contain the names of classified employees of permanent ~~or probationary~~ status who have been laid off ~~or demoted because of shortage of work or funds, reorganization, or abolishment of a position. Ranking on such register is to be made in accordance with Rule 146, governing employee preference except limited service appointments. (See Rule 140).~~ ~~(4-5-85)~~(\_\_\_\_)

**02. Departmental Promotional Registers.** Departmental promotional registers shall for a given classification contain the names of classified employees ~~with permanent status~~ in a given department who successfully passed a departmental promotional examination for the class. (Ref. Rule 086.05) ~~(4-5-85)~~(\_\_\_\_)

**03. Statewide Promotional Registers.** Statewide promotional registers shall for a given classification contain the names of all classified employees ~~with permanent status~~ in all state departments who successfully passed a statewide promotional examination for the class. (Ref. Rule 086.05) ~~(4-5-85)~~(\_\_\_\_)

**04. Open Competitive Registers.** Open competitive registers shall for a given classification contain the names of applicants who successfully passed an open-competitive examination for the classification. ~~(4-5-85)~~(\_\_\_\_)

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#### **102. PLACEMENT ON REGISTER.**

**01. Score Order.** Eligible candidates shall be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. ~~(3-30-01)~~(\_\_\_\_)

**02. Veterans' Preference.** Eligible veterans or surviving spouses entitled to five (5) point preference shall be placed on the open-competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule 093.03, and Section 65-506, Idaho Code) ~~(3-30-01)~~(\_\_\_\_)

**03. Disabled Veterans' Preference.** Eligible disabled veterans or surviving spouses entitled to ten (10) point preference shall be placed at the top of the open-competitive register above all other candidates in order of their final score on the examination augmented by preference points. (Ref. Rule 093.03, Section 65-605, Idaho Code) (3-30-01)

**04. Veterans' Preference For Initial Appointment Only.** The additional points added by reason of veterans' preference shall be used ~~for initial appointment~~ the first time a qualified veteran is hired by a state agency and not for the purpose of promotions ~~in classified service~~. (Ref. Section 65-506, Idaho Code) ~~(3-30-01)~~(\_\_\_\_)

#### **103. DURATION OF ELIGIBILITY REGISTERS.**

**01. Eligible Candidates.** Eligible candidates on ~~layoff~~ registers indicating reemployment preference due to layoffs will remain thereon for ~~twelve~~ eighteen (128) months. (Ref. Rule 101.01) ~~(3-30-01)~~(\_\_\_\_)

**02. Duration.** The duration of all other registers will be determined by the administrator based on the frequency of job openings and agency need. (3-30-01)

#### **104. REMOVAL OF NAMES.**

**01. Reasons Specified.** Names may be removed from any eligibility register(s) by the administrator because of: ~~(4-5-85)~~(\_\_\_\_)

**a.** Appointment of the eligible candidate from the register to the classification or appointment to a classification in a higher pay grade. ~~(3-30-01)~~(\_\_\_\_)

**b.** A statement by the eligible candidate that he or she is not willing to accept appointment under conditions previously specified. ~~(3-30-01)~~(\_\_\_\_)

**c.** Physical, mental or other disability where it has been demonstrated that the disability will prevent the eligible candidate from satisfactorily performing the essential functions of the position with reasonable accommodation for the disability. ~~(3-30-01)~~(\_\_\_\_)

**d.** Failure of an eligible candidate to respond within seven (7) calendar days to documented good faith inquiry concerning availability for employment. ~~(4-5-85)~~(\_\_\_\_)

**e.** The eligible candidate's conduct renders him or her unsuitable for ~~a~~ the position ~~in the state service~~ or classification for which he or she applied. ~~(3-30-01)~~(\_\_\_\_)

**f.** Written rejection of the eligible candidate for good cause by an appointing authority as approved by the administrator. (3-30-01)

**g.** Conviction of an eligible candidate of any felony. (3-30-01)

**h.** False statements of material facts given in the eligible candidate's application for employment or any subsequent examinations or interviews. (3-30-01)

**i.** Dismissal of an eligible candidate from state service. (3-30-01)

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**i.** Paying, promising to pay, or giving any money, thing, service or consideration to any person, directly or indirectly, for any service or influence given, used, or promised towards securing appointment. (\_\_\_\_)

**k.** Directly or indirectly obtaining information regarding examinations to which, as an applicant, he or she is not entitled. (\_\_\_\_)

**l.** Refusing an interview or refusing to accept a position under the conditions set forth in the recruitment announcement. (\_\_\_\_)

**m.** Having been certified for a probationary appointment for three (3) separate positions in the same classification in the same department and not been accepted for employment for good cause. (\_\_\_\_)

**n.** Declining three (3) separate offers of employment or reemployment without good cause. (\_\_\_\_)

**02.** ~~**Removal For Improper Influence.** The administrator may remove from an eligibility register the name of any person who has paid, promised to pay, or given any money, thing, service or consideration to any person, directly or indirectly, for any service or influence given, used, or promised towards securing appointment; or any person who has directly or indirectly obtained information regarding examinations to which, as an applicant, he or she is not entitled.~~ **Limitations And Duration Of Removal.** The administrator shall determine if the candidate will be removed from all registers, registers for a particular classification, or registers for specified agencies. All removals will be for one (1) year unless otherwise authorized by the administrator. (4-5-85)(\_\_\_\_)

**03.** ~~**Refusal Of Interview Or Position.** Any eligible candidate who refuses an interview or refuses to accept a position under the conditions set forth in the examination announcement may have his or her name removed from the eligibility register by the administrator.~~ (3-30-01)

**04.** ~~**Removal Of Names.** If the name of an eligible candidate has been certified for a probationary appointment for three (3) separate positions in the same class in the same department and has not been accepted for good cause, an appointing authority may request in writing to the administrator that the candidate not be certified to that department again for that class.~~ (7-1-87)

**05.** ~~**Removal For Declining Three Offers.** Upon written petition from an appointing authority, an employee's name may be removed from a departmental layoff register if the employee declines three (3) separate offers of reemployment without good cause. (Ref. Rule 101.01)~~ (7-1-87)

### (BREAK IN CONTINUITY OF SECTIONS)

**107.** ~~**ABOLISHMENT OF CLASSES.**~~

~~Whenever a class is abolished, names on existing eligibility registers for the class may be combined with names on a comparable register providing the candidates meet the minimum qualifications for the class represented by the comparable register.~~ (4-5-85)

**1087.** **REVISION OF CLASSIFICATION SPECIFICATIONS.**

Whenever a classification specification is revised, the names of persons on the existing eligibility register who meet the minimum qualifications for the revised classification shall be placed in score order on the eligibility register for the revised classification. (4-5-85)(\_\_\_\_)

**1098.** **(RESERVED).**

**1402.** **CERTIFICATION AND SELECTION.**

Whenever a vacancy in a classified position is to be filled by ~~the~~ a competitive ~~examination~~ recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division of Human Resources' staff. Internal agency transfers or reinstatements do not require registers certified by the Division of Human Resources. (4-5-85)(\_\_\_\_)

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### **1140. NUMBER OF NAMES ON REGISTER.**

The Division of Human Resources' staff shall certify a hiring list from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority shall be able to select for appointment from among ten (10) eligible candidates successively for each position to be filled. If an appointment is to be made to one (1) position only, the top ten (10) available eligible candidates shall be certified. If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing authority shall have ten (10) names to consider for each vacancy. The names of all eligible candidates with scores identical to the tenth ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes.

~~(3-30-01)~~(\_\_\_\_)

### **1121. ADEQUATE REGISTERS.**

A register with at least five (5) eligible candidates shall be adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may:

(3-30-01)

- 01. Selection From Inadequate Register.** Hire an eligible candidate listed on an inadequate register.

(3-30-01)

- 02. Provisional Appointment.** Make a provisional appointment pursuant to Rule 120.05. (3-30-01)

- 03. Request Certification.** Request the administrator authorize certification from an eligibility register for a comparable classification.

~~(3-30-01)~~(\_\_\_\_)

- 04. Special Request.** Request specialized recruitment.

(3-30-01)

### **1132. SELECTIVE CERTIFICATION.**

The administrator may authorize selective certification from a register where specific qualifications for a position are justified by an appointing authority in addition to the minimum qualifications for the classification.

~~(4-5-86)~~(\_\_\_\_)

### **1143. -- 1148. (RESERVED).**

### **12019. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.**

- 01. Form.** Appointing authorities shall notify the administrator of each appointment on the prescribed form.

(2-6-92)

- 02. ~~Layoff~~ Reemployment Preference Register.** New appointments to a classification within a department are not permissible if there is a departmental ~~layoff~~ reemployment preference register (Rule 101.01) for that classification with names of eligibles who are willing to accept employment.

~~(3-30-01)~~(\_\_\_\_)

- 03. Credited State Service.** Except as provided by Rules 040 and 250.02, no classified credited state service shall accrue to employees for any service under temporary, project exempt, or nonclassified appointments.

(7-1-87)

- 04. Probationary Period Required.** All appointments to positions in the state classified service whenever adequate eligibility registers exist for the classification shall be probationary appointments except as otherwise provided in Rules 040, and 150.

~~(3-30-01)~~(\_\_\_\_)

- 05. Provisional Appointment.**

(7-1-93)

- a.** A provisional appointment may be authorized in the absence of an adequate register ~~of eligibles. A provisional appointment will not be authorized if the announcement for the position is closed pending establishment of a register.~~

~~(4-5-85)~~(\_\_\_\_)

- b.** In nominating a person for provisional appointment, the appointing authority shall transmit to the administrator an application for employment of the nominee. If the applicant meets the minimum qualifications established for the classification, the nominee may be provisionally appointed to fill an existing vacancy in a position

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for no longer than thirty (30) calendar days after establishment of an adequate register. Successive provisional appointments of the same individual or successive provisional appointments to the same position shall not be permitted unless specifically authorized by the administrator. (4-5-85)(\_\_\_\_)

c. Provisional incumbents shall be given opportunity to take the examination for the classification of position. Any provisional employee who fails to pass such an examination within certifiable range or who has an opportunity to take such an examination and has not ~~availed himself or herself thereof~~ done so shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (4-5-85)(\_\_\_\_)

~~d. A period of provisional service immediately prior to an employee's probationary appointment from an eligibility register shall be credited to the probationary period. (Ref. Rule 154)~~ (4-5-85)

#### **1240. LIMITED SERVICE APPOINTMENTS.**

01. ~~Length Of Limited Service. Limited-service appointments (ref. Rule 010.04 for definition) are restricted to six thousand two hundred forty (6,240) hours of credited state service for non-career positions of relatively short duration.~~ **Designation.** Classified positions expected to be of limited duration due to funding or nature of the position or project must be identified and designated in advance of announcement. (4-5-85)(\_\_\_\_)

02. ~~Conversion To Permanent Status And Expedited Layoff.~~ Employees appointed under limited-service appointments ~~will automatically convert to career employees with permanent status if employed in limited-service appointments in excess of six thousand two hundred forty (6,240) hours~~ have permanent classified status after successful completion of probation. These employees have the same rights and responsibilities as other permanent employees but may be subject to expedited layoff pursuant to Rule 140.03.c. (4-5-85)(\_\_\_\_)

03. **Limited Service Agreement.** Appointing authorities making limited-service appointments shall prepare, no later than the date of appointment, a written agreement for signature of both the employee and appointing authority describing the non-career nature of the appointment, potential for layoff, and the duration the employee may expect to work. Renewals and/or updated agreements are required every two (2) years. A copy of ~~this~~ the agreement shall be submitted to the administrator. (12-10-90)(\_\_\_\_)

#### **1221. SEASONAL APPOINTMENT.**

01. **Purpose.** An appointing authority may make a seasonal appointment from a register for work that occurs intermittently during the year. (Ref. Idaho Code Section 67-5302(301), Idaho Code). (12-10-90)(\_\_\_\_)

02. **Employee Rights.** Employees appointed under a seasonal appointment will have all obligations, rights, and privileges of any classified employee except those accorded by Rules 140 through 1478, relating to reduction in force. (12-10-90)(\_\_\_\_)

03. **Separation.** Employees appointed under a seasonal appointment may be separated from the seasonal appointment and returned ~~thereto~~ as frequently as intermittent workload dictates. (12-10-90)(\_\_\_\_)

04. **Duration Of Appointment.** If an employee has not been called to work for six thousand two hundred forty (6,240) hours (three (3) years), the seasonal appointment expires; rehire of the employee must be from a register. (12-10-90)

#### **1232. TEMPORARY APPOINTMENTS (NON-CLASSIFIED).**

Temporary appointments shall be limited to one thousand three hundred eighty-five (1,385) hours of work in any twelve (12) month period for any one (1) department. Both calculations shall begin on the date of the original temporary appointment. An applicant who is hired as a temporary employee from a hiring list created from a certified register, and serves at least one thousand forty (1,040) hours of continuous service, may be hired by the employing agency into that position in classified service as an entrance probationary employee without further examination. The announcement for the temporary position from which the certified register was created must indicate that the temporary position has the potential of becoming a permanent classified position. The classified position must be in the same classification and at the same location as announced. (Ref. Section 67-5302(323), Idaho Code), ~~for~~ definition. (7-1-87)(\_\_\_\_)



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### **1243. PROJECT-EXEMPT APPOINTMENTS (NON-CLASSIFIED).**

Project-exempt appointments are non-classified positions and shall be limited to the length of the project grant or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is shorter. (Ref. Section 67-5303(m), Idaho Code). ~~for definition.~~ (4-5-85)(\_\_\_\_)

### **125. REINSTATEMENTS.**

**01. Eligibility.** As determined by the administrator, a current or former employee shall be eligible for reinstatement to a classification in which he or she held permanent status, or if deleted its successor, or to another classification of equal or lower pay grade under the following conditions (salary treatment is covered by Rule 072.05). (3-30-01)(\_\_\_\_)

**a.** Reinstatement is limited to a period equal to the length of the employee's probationary and permanent employment combined. (3-30-01)

**b.** The current or former employee must have separated from the classification for which reinstatement is desired without prejudice. A former employee must also have separated from state classified service without prejudice. (4-5-85)(\_\_\_\_)

**c.** The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. (4-5-85)(\_\_\_\_)

**02. Reinstatement Prohibited.** Reinstatement of a current or former employee is not permissible as long as there is a departmental ~~layoff~~ register (Rule 101.01) for ~~the~~ that classification with names of eligibles who ~~are~~ willing to accept have reemployment preference status. (4-5-85)(\_\_\_\_)

**03. Examination.** The administrator may require a current or former employee to pass an examination for the classification to which reinstatement is desired. (4-5-85)(\_\_\_\_)

**04. Probationary Period.** An appointing authority may negotiate for a probationary period as a condition of reinstatement except as provided in Rule 1254.05 or when hiring off a ~~layoff~~ register with reemployment preference status. (3-30-01)(\_\_\_\_)

**05. Return From Military Duty.** An employee returning from military leave without pay (Rule 250.05) who is relieved or discharged from military duty under conditions other than dishonorable shall be, upon application, reinstated in his or her former position, or one of comparable classification, without loss of credited state service, status, or pay as prescribed by Sections 46-216, 65-511 and 65-512, Idaho Code, or the Military Selective Service Act, Title 38, Chapter 43, U.S. Code. Application for reemployment must be made within ninety (90) calendar days after separation from military duty or from hospitalization continuing after discharge up to one (1) year. Salary treatment is covered by Rule 072.08. (3-30-01)

### **1265. TRANSFERS.**

**01. Authority To Transfer.** An appointing authority may transfer an employee at any time from one position to another in the same classification. (4-5-85)(\_\_\_\_)

**02. Transfer Within Pay Grade.** An appointing authority may transfer an employee from a classification in which he or she holds permanent status to another classification allocated to the same pay grade for which the employee meets the minimum qualifications. (4-5-85)(\_\_\_\_)

**03. Probationary Period.** An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. Voluntary probation is not allowed for intradepartmental transfers. (Ref. Rule 150.02). (3-30-01)(\_\_\_\_)

**04. Limitation.** Transfers shall not be used to abridge an employee's rights in reduction in force prescribed by Rules 140 through 1478. (7-1-87)(\_\_\_\_)

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**05. Transfer Between Departments.** An employee shall be eligible for transfer between departments in the same classification in which he or she holds permanent status or to another classification in the same or lower pay grade for which the employee meets the minimum qualifications. Accrued vacation and sick leave shall be transferred in accordance with Rules 230.04 and 240.02. Salary treatment is covered by Rule 072.04. ~~(7-1-87)~~( )

**06. Restriction.** Transfer of an employee between departments is not permissible as long as there is a departmental ~~layoff~~ register with reemployment preference status (Rule 101.01) for the classification in the department to which transfer is desired with names of eligibles who are willing to accept reemployment. ~~(4-5-85)~~( )

**07. Examination.** The administrator may require an employee transferring between classifications to pass an examination for the classification to which transfer is desired. ~~(4-5-85)~~( )

**08. Involuntary Transfer.** Due process must be given to any employee subject to an involuntary transfer. (Ref. Rules 010.39 and 200.01.a.). ( )

### **1276. RESIGNATION.**

**01. Notice.** A classified employee may resign at any time. A resignation is effective at the time designated by the employee, without need for written or advance notice, or acceptance of the resignation by the department. (6-11-89)

**02. Rescission And Reinstatement.** Once an employee has submitted a resignation, reinstatement is in the discretion of the department as provided in Rule 1254. The department may but is not required to allow an employee to rescind a resignation prior to its effective date. ~~(6-11-89)~~( )

**03. Resignation In Lieu Of Dismissal.** An employee may resign in lieu of being dismissed for cause. (7-1-93)

### **1287. -- 1298. (RESERVED).**

### **13029. ACTING APPOINTMENT TO A POSITION.**

**01. Conditions For Acting Appointment.** At the discretion of an appointing authority, a classified employee with permanent status may be appointed to a position in a classification of higher pay grade within his or her own department in an acting capacity whenever: ~~(7-10-88)~~( )

a. The incumbent of the position in the higher classification is on authorized leave of absence; or ~~(7-10-88)~~( )

b. A vacancy exists and there is no departmental ~~layoff~~ register with reemployment preference status (Rule 101.01) with names of eligibles who are willing to accept reemployment, nor adequate departmental register for the classification. ~~(7-10-88)~~( )

**02. Minimum Qualifications.** To be eligible for an acting appointment, an employee must meet the minimum qualifications of the class. (4-5-85)

**03. Notification.** Appointing authorities shall notify the administrator of each acting appointment ~~on the prescribed form~~ no later than the effective date of the appointment unless an exception is specifically authorized by the administrator. ~~(2-6-92)~~( )

**04. Effective Date.** The effective date of each ~~active~~ acting appointment may be retroactive to the beginning of the pay period during which approval is granted. ~~(3-30-01)~~( )

### **1340. LIMITATION ON LENGTH OF APPOINTMENT.**

~~Such~~ Acting appointments shall be limited to the period of time necessary to fill the vacancy pursuant to procedures

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prescribed in these rules but in no case shall continue beyond one thousand forty (1,040) hours of credited state service unless specifically extended by the administrator. (4-5-85)(\_\_\_\_)

#### **1321. SALARY.**

For any credited state service which an employee serves in a classification in an acting capacity, he or she shall receive the salary for the classification as though he or she had actually been promoted. (4-5-85)(\_\_\_\_)

#### **1332. EXPIRATION OF APPOINTMENT.**

**01. Return Of Incumbent.** When the incumbent of the classification returns from leave of absence, or the vacant position is filled, the acting appointment shall expire. The acting appointee shall be returned to the class, the pay grade and rate held immediately preceding the acting appointment. (7-1-94)(\_\_\_\_)

**02. Failure Of Incumbent To Return.** Should the employee on leave of absence separate from state service, the employee serving in the acting appointment may continue to serve in that capacity until the vacancy has been filled but in no case exceed the time limits prescribed in Rule 1340. (4-5-85)(\_\_\_\_)

~~**03. Probationary Period Upon Promotion.** The time served in an acting appointment immediately preceding an employee's promotion from an eligibility register to the class shall be credited to the employee's probationary period. (Ref. Rule 154) (4-5-85)~~

#### **1343. -- 139. (RESERVED).**

#### **140. REDUCTION IN FORCE.**

**01. Conditions For Layoff.** An appointing authority may lay off an employee whenever ~~it is~~ necessary ~~because of~~ due to: (\_\_\_\_)

**a.** ~~§~~Shortage of funds or work; (\_\_\_\_)

**b.** ~~†~~Reorganization; (\_\_\_\_)

**c.** The end of a limited service appointment; (\_\_\_\_)

**d.** An employee's failure to complete interagency promotional probation when demotion options are not available; or (\_\_\_\_)

**e.** ~~†~~The abolishment of one (1) or more positions (ref. Rule 066). ~~A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to a lower pay grade shall not constitute a layoff (ref. Rule 067). A reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions within the department or within the organizational unit approved pursuant to Rule 140.02.~~ Layoffs shall be accomplished in a systematic manner with equity for the rights of classified employees and shall not ~~abrogate~~ do away with an employee's right ~~of grievance~~ to problem solving, review, or appeal if the layoff is in fact a dismissal. (4-5-85)(\_\_\_\_)

**02. Assessment For Adverse Impact.** Layoff decisions must not be based on race, color, national origin, gender, age, religion, disability or political affiliation. In planning and conducting a reduction in force, the appointing authority shall consider the effect of decisions, such as establishment of layoff units and selection of classifications containing positions to be abolished, on the composition of the work force of the agency. If layoff units and/or exclusions are established, adverse impact will be assessed as recognized in state and federal laws, rules and guidelines. The appointing authority shall take appropriate action consistent with state and federal laws, and rules and guidelines governing adverse impact. (\_\_\_\_)

~~**043. Layoff By Position.** Reduction in force shall be by classification of position regardless of class of incumbent.~~ (4-5-85)(\_\_\_\_)

**a.** Reduction in force may be limited to or specifically exclude employees appointed under selective

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certification, (Rule 1132) for bona fide occupational qualifications, or appointed ~~under specific options or to a classification with~~ minimum qualification specialties ~~in a class~~. Inclusions or exclusions must include or exclude all incumbents of the classification appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the administrator. (7-1-93)( )

b. ~~Reduction in force for employees in limited service appointments shall be limited to the program or function for which the appointments were made.~~ An appointing authority may petition the administrator to exclude an individual or individuals from a reduction in force whose retention may be required to meet agency mission critical needs. Requests must provide a documented rationale and be approved in advance by the administrator. (4-5-85)( )

c. ~~Reduction in force for employees in seasonal appointments will be governed by workload fluctuations and has no applicability under this rule. (Ref. Rule 122).~~ Limited-service appointments are defined by the project, the program, or function for which the appointments were made. If a reduction in force relates to a limited service project conclusion and agreement, the limited service appointee may not displace other employees with fewer retention points. (Ref. Rule 120). Other permanent employees may not displace limited service appointees in a reduction in force. (12-10-90)( )

**024. Layoff Unit.** Reduction in force shall be department-wide or by organizational unit determined by the appointing ~~authority provided the organizational unit designation for layoff purposes is made by the appointing~~ authority and approved by the administrator before the effective date of the layoff. (4-5-85)( )

**05. Reduction Of Hours Worked.** An involuntary reduction in the number of hours worked for a selected position or positions shall constitute a layoff unless there is an equal reduction of hours worked for all positions in the same classification in the department or approved organizational unit for a limited period of time, i.e. furlough. ( )

**06. Downward Reclass.** A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to a lower pay grade shall not constitute a layoff. (Ref Rule 067). ( )

#### **03141. CALCULATION OF RETENTION POINTS.**

There shall be ~~competition among~~ an evaluation of all employees in the classification in the department or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations and credited state service. Qualified war veterans are given preference through additional retention points. (Ref. Rule 210141.05) as follows:

#### **01. For Performance Evaluations Conducted Before March 31, 2001:**

Performance Level	Retention Points Earned Per Hour of Credited State Service
Superior or equivalent	.100
Very Good or equivalent	.075
Satisfactory or equivalent	.050
Needs Improvement or equivalent	.000
Unsatisfactory	.000

(7-1-87)( )

**02. For Performance Evaluations Conducted After March 31, 2001.** the appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

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<u>Does Not Achieve Performance Standards Overall Rating</u>	<u>No Points</u>
<u>Achieves Performance Standards (APS) with narratives describing satisfactory performance in some, but not all, required core areas.</u>	<u>.025</u>
<u>APS rating with no or minimal documentation.</u>	<u>.075</u>
<u>APS rating with narratives describing competent performance.</u>	<u>.100</u>
<u>APS rating with narratives describing performance that exceeds expectations.</u>	<u>.125</u>
<u>APS rating with narratives describing outstanding performance.</u>	<u>.150</u>

( )

**03. No Performance Evaluation On File For A Twelve-Month Period.** All credited state service before March 31, 2001, for which there is no performance evaluation shall receive .050 points per hour. All credited state service after March 31, 2001 for which there is no performance evaluation shall receive .075 points per hour.

(4-5-85)( )

**04. Calculation Of Retention Points Since Last Evaluation.** The most recent performance evaluation should be used as the multiplier when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points shall be calculated in conformance with Rule 141.03.

( )

**05. Qualified War Veterans Preference.** War veterans as defined in Chapter 5, Title 65, Idaho Code, shall receive an bonus of additional three four hundred twelve sixty-eight (312468) retention points which is equivalent to three (3) years of satisfactory service.

(4-5-85)( )

~~e. No points shall be calculated for the last three (3) months prior to a reduction in force.~~ (4-5-85)

**04. Audit Of Retention Points.** Each employee shall be entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor shall be binding on both parties unless an appeal is filed within thirty five (35) calendar days from the date of the auditor's notification to the affected parties.

(7-1-87)

### **142. CREDITED STATE SERVICE.**

Eligible credited state service for purposes of Rule 140 is defined as follows:

(4-5-85)

**01. Service Prior To State Personnel System.** All credited state service prior to the establishment of classified service, Chapter 53, Title 67, Idaho Code. (Ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions of credited state service)

(4-5-85)

**02. Classified Service.** All classified credited state service since the establishment of classified service.

(4-5-85)

**03. Nonclassified Service.** All credited state service in a position exempt from classified service if that position is subsequently transferred to classified service pursuant to Rule 040.

(7-1-87)

**04. Leave Of Absence From Classified Service.** All credited state service, in a leave of absence from classified service, that a classified employee serves in a nonclassified position. Limitations are contained in Rules 250.02.a and 125.01.a.

(7-1-87)

### **143. AUDIT OF RETENTION POINTS.**

Each employee shall be entitled to an audit of retention points by an independent auditor designated by the

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administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor shall be binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. ( )

#### **1424. ~~PROCEDURE~~ REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.**

**01. Identification Of Classifications.** The appointing authority shall identify the classification(es) of positions to be ~~affected by layoff and the organizational unit if applicable under Rule 140.02~~ eliminated. (4-5-85)( )

**02. Calculation Of Retention Points.** Retention points shall be calculated for all employees assigned to the classification of position including those serving in underfill positions (Ref. Rule 010.60 or acting appointments (Ref. Rule 130). ~~Employees on approved leave of absence without pay shall not be included (Ref. Rule 142.04).~~ Retention points need not be calculated where layoff involves a single-incumbent class. (7-1-87)( )

**03. Order Of Reduction In Force.** The order of reduction in force shall be by type of appointment held by the employee in the affected classification(es) as follows: first to be laid off are provisional appointees, next the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees shall be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs shall be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention shall be determined in the following sequence: (Ref. Rule 150.02.c.) (3-30-01)( )

a. The employee with the highest ~~overall average performance credit~~ (total retention points ~~divided by total credited state service~~) for the past thirty-six (36) months. (4-5-85)( )

b. Random selection. (4-5-85)

**04. ~~Employee Returning From Leave Of Absence.~~** ~~An employee returning from a leave of absence without pay to a class for which a layoff register exists will be laid off in accordance with these rules if there are employees on the layoff register for the class with more retention points (Ref. Rule 142.02).~~ **Notification To Administrator.** The appointing authority shall provide documentation of the layoff decision-making process to the administrator at least twenty (20) calendar days prior to the effective date, including a list of all employees considered for layoff and the outcome. (7-1-87)( )

**05. Notification ~~Of~~ To Affected Employees.** Each employee affected shall be notified in writing of layoff and ~~reasons therefor~~ the rationale for the decision at least fifteen (15) calendar days prior to the effective date of the layoff. Notification shall include a copy of the departmental layoff procedure and a copy of the computation of retention points when required (Ref. Rule 142.02). (4-5-85)( )

**06. ~~Notification To Administrator.~~** ~~The appointing authority shall give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and shall provide a list of persons affected by the layoff with their retention point calculations and shall indicate which employees will be laid off.~~ (4-5-85)

#### **~~143. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.~~**

~~An employee with permanent status, may, in lieu of layoff, elect voluntary demotion to a class, or if deleted, its successor, in which the employee held permanent status in the department. Such demotion shall not be permitted, however, if the result would be to cause the layoff of an employee with permanent status with greater retention points. To exercise the right of voluntary demotion in lieu of layoff, the employee must notify the appointing authority in writing of such election no later than five (5) working days after receiving notice of layoff.~~ (7-1-94)

#### **1445. PLACEMENT ON ~~LAYOFF~~ REGISTER WITH REEMPLOYMENT PREFERENCE.**

An employee ~~who elects a voluntary demotion in lieu of layoff or an employee~~ laid off from state service, ~~under these rules or who chooses a voluntary demotion in lieu of a layoff,~~ shall be placed on a ~~layoff~~ register ~~(Rule 101.01) in accordance with Rule 146 with reemployment preference in unranked order for one eighteen (18) year months~~ from the effective date of ~~demotion or~~ layoff, or until the employee or former employee declines a total of three (3)

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separate offers of reemployment without good cause, whichever comes first. (Rule 104.051.n.) ~~(3-30-01)~~( )

#### **1456. USE OF ~~LAYOFF~~ REGISTERS WITH REEMPLOYMENT PREFERENCE REQUIREMENTS.**

##### **01. ~~Offer Of~~ Priority For Reemployment By Agency That Conducted The Layoff.** ( )

**a.** ~~An~~ The employee ~~on a layoff register~~ who has been laid off, or officially notified of a pending layoff date (Ref. Rule 144.05) shall be offered reemployment to a position in the classification from which laid off, before any other person may be promoted, transferred, reinstated, reclassified or appointed, including acting appointment, to such classification by ~~the~~ an appointing authority ~~enforcing the layoff of that department or agency.~~ Appointing authorities ~~in other departments are only required to offer an interview.~~ (Ref. Rule 101.01) may reassign or transfer individuals who are in the same classification within their department. (Ref. Rule 125.04 and 125.08)

~~(3-30-01)~~( )

**b.** When attempting to fill vacancies for a classification where a lay off occurred, the department or agency shall provide an opportunity to interview and shall make their hiring selection among the individuals from their agency laid off from the classification, including those separated from state service under Rule 150.02 and those that took a voluntary demotion in lieu of layoff. ( )

**c.** Individuals being returned to the classification from which they were laid off will be reinstated with the same salary and their sick leave balance restored. If the pay minimum has increased, see Rule 072.04. ( )

**02. ~~Optional Return To Layoff Register.~~** ~~When an employee is appointed from a layoff register, but finds the position unsatisfactory, they may resign, and request recertification to the layoff register for the remainder of their twelve (12) month eligibility period.~~ **Consideration For Hire By Other Agencies.** Individuals who have been laid off must be offered the opportunity to interview before other agencies consider open competitive register candidates. Internal agency candidates for promotional opportunities are normally considered before outside recruitment occurs, including other agencies' laid off candidates. ~~(3-30-01)~~( )

**03. ~~Employment By Other Agency.~~** Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. ( )

**04. ~~Return To Register.~~** If an individual finds another agency's position unsatisfactory or does not meet performance expectations during a voluntary probation period, he or she may be placed back on a register for the remainder of their eighteen (18) month time frame. Individuals appointed from a register to a position other than the classification from which laid off, will remain on the register for the classification from which laid off for the remainder of the eighteen (18) month period if otherwise eligible. ( )

#### **~~146. APPLICATION OF REEMPLOYMENT PREFERENCE.~~**

**01. ~~Reemployment Rights.~~** ~~Reemployment preference from layoff registers shall be determined by retention points in rank order from highest to lowest within each of the following categories of employees (salary treatment is covered by Rule 072.03):~~ (4-5-85)

**a.** ~~Employees with permanent status in the class.~~ (4-5-85)

**b.** ~~Promotional probationary employees who have permanent status in a class allocated to a lower pay grade.~~ (4-5-85)

**c.** ~~Probationary employees without permanent status in any class.~~ (4-5-85)

**02. ~~Exception.~~** ~~Employees who have neither probationary nor permanent status in a class affected by a layoff, and employees serving in limited service appointments have no preference for reemployment, and their names shall not appear on a layoff register.~~ (7-1-87)

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#### **147. INTERVIEWS FOR PROSPECTIVE LAYOFFS.**

Any ~~Employees~~ who has been notified or identified as likely to be affected by a layoff ~~shall~~ may request to be placed on a register for the classification from which the layoff will occur. (Ref. Rule 146.01.a.) ~~Departments attempting to fill such vacancies~~ All agencies, shall offer an interview to these individuals when attempting to fill such vacancies.

(3-30-01)( )

#### **148. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.**

An employee with permanent status, may, in lieu of layoff, elect voluntary demotion to a classification within their layoff unit, or if deleted, its successor, in which the employee held permanent status in the department. Such demotion shall not be permitted, however, if the result would be to cause the layoff of an employee with permanent status with greater retention points.

( )

**01. Eligibility.** Employee must meet the classification's current minimum qualifications and any minimum qualification specialties required. Limited service appointees are not eligible.

( )

**02. Acceptance.** To exercise the right of voluntary demotion in lieu of layoff, the employee must notify the appointing authority in writing of such election no later than three (3) working days after written notification of the pending layoff.

( )

~~148.~~—149. (RESERVED).

#### **150. PROBATIONARY PERIODS.**

**01. Probationary Period Required.** Except as provided in Rule 040, every appointment and promotion to a classified position shall be probationary, or in the absence of adequate registers, provisional.

(7-1-87)

**02. Types Of Probationary Periods.** The probationary period serves as a working test period to provide the department an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are three (3) types of probationary periods:

(3-30-01)

**a.** Entrance probation is the probationary service required of an employee at the time of his or her original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which shall be one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who shall serve two thousand eighty (2,080) hours.

(3-30-01)

**b.** Promotional probation is the probationary service required when an employee is promoted, the duration of which shall be one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who shall serve two thousand eighty (2,080) hours.

(3-30-01)

**c.** Voluntary probation is the probationary period negotiated between employees seeking inter-agency transfer, voluntary demotion, and/or reinstatement and the hiring authority. The probationary period is negotiable but shall may not exceed one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who may serve up to two thousand eighty (2,080) hours. Voluntary probation agreements must be approved by the administrator and kept on file with the Division for the duration of the probationary period.

(3-30-01)( )

**03. Extension Of Probationary Period.** Upon petition by an appointing authority that demonstrates good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. Petitions must be received by the administrator before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers.

(7-1-94)( )

**04. Interruption Of Probationary Period.** The probationary period in any classification must be completed within a single department uninterrupted by resignation, termination (Ref. Rule 152.02) or dismissal (Ref. Rule 190). An employee who separated ~~by means other than layoff~~ during the probationary period must begin a new



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probationary period upon reappointment or promotion. ~~The entrance probationary period is not interrupted by a voluntary demotion within a department.~~ (7-1-93)(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **152. ~~UNSATISFACTORY SERVICE~~ SEPARATION DURING PROBATION.**

**01. Notification.** ~~Should~~ If a probationary employee ~~fail to serve satisfactorily~~ does not meet expectations, the appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Division of Human Resources a performance evaluation indicating unsatisfactory performance. (Ref. Section 67-5309(j), Idaho Code and Rule 210.04) (7-1-87)(\_\_\_\_)

**02. During Entrance And Voluntary Probation.** (3-30-01)

**a.** An employee who ~~fails to serve satisfactorily~~ does not meet expectations during the entrance or voluntary probation shall first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. (3-30-01)(\_\_\_\_)

~~**03. During Promotional Probation.** If an employee on promotional probation fails to serve satisfactorily in the position to which he or she has been promoted, the employee shall be returned to a position in the class in which he or she holds permanent status or to a classification allocated to the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation. As with all employees, a violation of Rule 190 may result in disciplinary action up to and including dismissal.~~ (3-30-01)

#### **153. UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.**

**01. Disciplinary Action.** Regardless of the probation status, when a Rule 190 violation supports demotion, suspension, or dismissal, such action may occur. (\_\_\_\_)

**02. Intra-Agency.** If an employee, on promotional probation, ~~does not meet performance expectations, he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it shall be considered a voluntary resignation.~~ (\_\_\_\_)

**03. Inter-Agency.** (\_\_\_\_)

**a.** The employee may voluntarily demote to a vacant position in any classification he or she has held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one (1) option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointing authority. (\_\_\_\_)

**b.** If no position is available for the voluntary demotion option, the employee may be laid off and may: (\_\_\_\_)

**i.** Request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or (\_\_\_\_)

**ii.** Request their name be placed on a register with reemployment preference rights for the classification in the agency where they last held permanent status. (\_\_\_\_)

#### **1534. FAILURE TO PROVIDE PERFORMANCE EVALUATION.**

If the appointing authority fails to provide a performance evaluation as required in Rules 151 ~~and 152~~, the employee

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shall be considered to have satisfactorily completed the probationary period and shall be certified to permanent status as provided by Rule 151, unless the probationary period has been extended by the administrator. (Ref. Rule 150.03) (7-1-87)(\_\_\_\_)

#### **~~154. PROVISIONAL AND ACTING APPOINTMENTS.~~**

~~Satisfactory service in provisional and acting appointments shall be credited toward the probationary period required by Rule 150.01 if the employee is subsequently appointed or promoted to the class in which he or she is serving the provisional or acting appointment. (Ref. Rules 120.05.d. and 133.03) (4-5-85)~~

**155. -- 1598. (RESERVED).**

#### **~~16059. STATUS AND TENURE.~~**

**01. Probationary Promotions.** Employees serving a promotional probationary period shall have continued permanent status in the classification from which promoted until they are certified as having satisfactorily completed the promotional probationary period in the classification to which promoted. (Ref. Rules 151, 152.03, and 153) (7-1-87)(\_\_\_\_)

**02. Tenure Of Employment.** All employment in the state classified service shall be without definite term except where the term may be specified by law, or under conditions of a limited-service appointment. (Ref. Rule 1270) (4-5-85)(\_\_\_\_)

**1640. -- 1698. (RESERVED).**

#### **~~17069. PROMOTIONS.~~**

**01. Use Of Promotional Registers.** (7-1-93)

**a.** Preference for Promotion. Whenever practical, a vacancy in a classified position shall be filled by the promotion of an employee in the department in which the vacancy occurs. (Ref. Section 67-5309(g), Idaho Code) (3-30-01)

**b.** Exception. An appointing authority may request that a position be filled from a statewide promotional register (Rule 101.03) or an open-competitive register (Rule 101.04) whenever he or she determines that such an appointment will best serve the interests of the department. (Ref. Rule 112) (4-5-85)(\_\_\_\_)

**c.** Layoff Departmental Registers with Reemployment Preference Status. Promotions to a classification are not permissible as long as there is a departmental layoff register with reemployment preference status (Rule 101.01) for the classification with names of eligible candidates who are willing to accept reemployment. (3-30-01)(\_\_\_\_)

**02. Interdepartmental Promotions.** All interdepartmental promotions shall be made using statewide promotional registers (Rule 101.03) (7-1-87)

**03. Eligibility For Promotion.** Promotional ~~candidates~~ appointees must have permanent status (ref. Rule 16059) and must meet the minimum qualifications of the promotional classification. (4-5-85)(\_\_\_\_)

**1740. -- 1798. (RESERVED).**

#### **~~18079. DEMOTIONS.~~**

Demotions authorized under these rules apply to both probationary and permanent status employees who meet the minimum qualifications of the classification to which demoted. (7-1-87)(\_\_\_\_)

#### **~~1840. NONDISCIPLINARY DEMOTION REQUIRED.~~**

An appointing authority shall make a nondisciplinary demotion when: (4-5-85)

**~~01. Downward Reclassification.~~** The position occupied by an employee is reclassified to a

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classification allocated to a lower pay grade in accordance with assigned responsibilities pursuant to Rule 067.

(4-5-85)( )

~~02. **Voluntary Demotion In Lieu Of Layoff.** An employee with permanent status elects demotion in lieu of layoff as provided by Rule 143.~~ (4-5-85)

#### **1821. NONDISCIPLINARY DEMOTION OPTIONAL.**

An appointing authority may make a ~~nondisciplinary~~ voluntary demotion when:

(4-5-85)

~~01. **Voluntary.**~~ Requested by an employee and approved by the appointing authority. (4-5-85)( )

~~02. **Displaced In Layoff.** An employee is displaced by another employee entitled to the position pursuant to this Rule Section.~~ (7-1-87)

#### **1832. DISCIPLINARY DEMOTION.**

An appointing authority may make a disciplinary demotion for causes enumerated in Rule 190 which are not sufficiently severe to warrant dismissal. (7-1-87)

#### ~~184. **NOTIFICATION.**~~

~~Except for Rule 182.01, an appointing authority shall give written notice of demotion concurrently to the employee and the administrator at least fifteen (15) calendar days prior to the effective date and shall set forth the specific reasons for the demotion.~~ (4-5-85)

#### **1854. -- 189. (RESERVED).**

#### **190. DISCIPLINARY ACTIONS.**

**01. Cause For Disciplinary Actions Or Separation From State Service.** ~~Disciplinary actions, including d~~Dismissal, suspension, demotion, or reduction in pay, may ~~be taken against any employee in the state classified service~~ occur for any of the following causes ~~which occur~~ during the employee's employment: (7-1-93)( )

**a.** Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the department or the Division of Human Resources and Idaho Personnel Commission. (7-1-87)( )

**b.** Inefficiency, incompetency, or negligence in performing duties. (4-5-85)

**c.** Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. (Ref. Rule 010.4756) (3-30-01)( )

**d.** Refusal to accept a reasonable and proper assignment from an authorized supervisor. (4-5-85)

**e.** Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the department. (4-5-85)

**f.** Intoxication on duty. (4-5-85)

**g.** Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. (4-5-85)

**h.** Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage. (4-5-85)

**i.** Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. (4-5-85)

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- j. Acceptance of gifts in exchange for influence or favors given in an official capacity. (4-5-85)
- k. Habitual pattern of failure to report for duty at the assigned time and place. (4-5-85)
- l. Habitual improper use of sick leave. (4-5-85)
- m. Unauthorized disclosure of confidential information from official records. (4-5-85)
- n. Absence without leave. (4-5-85)
- o. Misstatement or deception in application for employment. (4-5-85)
- p. Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. (4-5-85)
- q. Prohibited participation in political activities. (Ref. Section 67-5311, Idaho Code) (4-5-85)

**02. Suspension For Investigation.** An appointing authority may suspend with pay an employee for investigation of disciplinary causes enumerated above. Each suspension for investigation shall be superseded by reinstatement to duty, dismissal or disciplinary suspension within thirty (30) calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the administrator. Further extensions may be granted with the approval of the Administrator. (3-30-01)

**03. Disciplinary Suspension.** An appointing authority may suspend without pay an employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status shall be subject to appeal by the employee to the ~~Personnel~~ Commission. (~~4-5-85~~)( )

**04. Suspension On Felony Charges.** An appointing authority may suspend without pay an employee upon the issuance of a complaint, an information or indictment for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full reinstatement of all benefits and salary that the employee would have otherwise been entitled shall be provided by the appointing authority to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction. (7-1-87)

**05. Notice To Administrator.** Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he or she shall notify the employee and the administrator concurrently in writing; and shall set forth the specific rule(s) violated and the reasons for the action. Suspensions with pay for investigation (Ref. Rule 190.02) may be made without prior notice to the employee; in this case, the appointing authority shall notify the administrator as soon as practical. (7-1-87)

**191. -- 199. (RESERVED).**

### **200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.**

#### **01. Overview Of Procedures. (3-30-01)**

a. The due process procedure deals with the disciplinary matters set forth in Idaho Code Section 67-5315(2), dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the department. Decisions regarding disciplinary dismissals, suspensions without pay, and demotions are appealable in accordance with Rule 201. (3-30-01)

b. The problem-solving procedure deals with all matters not specifically reserved for the due process procedure. Problem solving decisions are not appealable to the ~~Personnel~~ Commission except as authorized by Section 67-5316, Idaho Code. (~~3-30-01~~)( )

#### **02. Establishment Of Departmental Problem-Solving And Due Process Procedures. Each**

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participating department shall maintain written employee problem-solving and due process procedures, which have been approved by the administrator for conformity to law and this Section. (7-1-98)

**03. Eligibility And Time For Filing Under Problem-Solving Procedure.** Any classified employee with permanent, provisional or entrance probationary status may file under the problem-solving procedure as defined by Section 67-5315(1), Idaho Code. An employee shall file under the problem-solving procedure in writing not later than ten (10) working days after being notified or becoming aware of a nondisciplinary matter which may be handled through the problem-solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the department is strongly encouraged to waive any time limits. (Ref. Rule 200.053). The time limit for filing shall be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job. The department may accept a filing that is or appears to be filed late. Department policies may provide for waiver of time elements or any intermediate step of the problem-solving procedure upon mutual agreement of the employee and appointing authority. (~~3-30-01~~)(\_\_\_\_)

**04. Elements Of The Problem-Solving Procedure.** The procedure shall contain a statement from the department head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement shall also provide a means whereby department representatives can obtain timely authority, if needed, to resolve the matter. The procedure shall require the employee to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure shall provide for such additional levels of management as are appropriate in the department. The procedure shall also provide for the use of an impartial mediator upon agreement by the employee and department. Timelines shall not exceed five (5) working days between each step. The procedure shall also inform the employee that he or she is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative shall be expressly prohibited. This procedure shall not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1), Idaho Code; Rules 150 ~~through~~ and 1543). (~~3-30-01~~)(\_\_\_\_)

**05. Filings Alleging Sexual Harassment Or Other Illegal Discrimination.** Each department's problem-solving procedure shall provide an optional alternative procedure for an employee to file allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability. The procedure shall expressly prohibit sexual harassment and discrimination. Employees shall be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure shall designate a specific person or persons to receive and investigate such filings, and shall require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (7-1-98)

**06. Elements Of Due Process Procedure.** A department must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction or involuntary transfer, as set forth in Section 67-5315(2), Idaho Code. With respect to notice, a department must provide notice of the contemplated action, the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice shall be provided to the employee and administrator concurrently. With respect to the opportunity to respond, the employee must be given the opportunity to respond to the notice and present reasons why the contemplated action should not be taken. The opportunity to respond shall not occur later than ten (10) working days after the employee has received notice, unless both the employee and department agree otherwise in writing. After the employee has responded, or after the period to respond has expired or has been waived in writing by the employee, whichever occurs first, the appointing authority, or designee, shall make and implement the department's decision not later than ten (10) working days thereafter, excluding days the appointing authority, or designee, is out of the office, unless both the employee and department agree otherwise in writing. The procedure shall inform the employee of his or her right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure shall also provide for the use of an impartial mediator upon agreement by the employee and department. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (Ref. Sections 67-5309(j), 67-5315(2), Idaho Code; Rule 150 through Rule 1543). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision shall also be sent to the administrator concurrently. (~~3-30-01~~)(\_\_\_\_)

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**07. Notification.** A copy of the approved problem-solving and due process procedures shall be furnished and explained to each employee with permanent, provisional or entrance probationary status in the department concerned. (7-1-98)

**08. Assistance To Departments.** The administrator shall assist departments whenever requested in the development or revision of their departmental problem-solving and due process procedures. (7-1-98)

#### **201. APPEAL PROCEDURE.**

**01. Idaho Rules Of Administrative Procedure.** In addition to the following rules on appeals and petitions for review, the "Idaho Rules of Administrative Procedure of the Attorney General" on contested cases, IDAPA 04.11.01.000 et seq., apply with the following exceptions, which are inconsistent with the Commission's statute or practice: IDAPA 04.11.01.055, ~~151-05 202~~, 240, 250, 270.01, 280, 300, 302, 651, 720, 730, 740, 790, 791, 821.02, and 860. Petitions for rulemaking and declaratory rulings are addressed in Rules 270 and 271 of these rules. (~~3-30-01~~)(\_\_\_\_)

**02. Filing Of Appeal And Appearances.** Every appeal filed with the Commission shall be written. The appeal shall be filed at the Division of Human Resources which serves as the office of the Commission, and shall state the decision that is being appealed and the action requested of the Commission. The ~~administrator~~ Commission shall serve a copy of the appeal on the respondent and upon the legal counsel for the Commission. Notices of appearance and notices of substitution of counsel need not be filed by Deputy Attorneys General or members of law firms already representing a party in an appeal or petition for review. (~~7-1-87~~)(\_\_\_\_)

**03. Time For Appeal.** An appeal from a decision of an appointing authority shall be deemed to be timely filed if received ~~or postmarked at the office of the Commission~~ within thirty-five (35) calendar days after completion of the departmental due process procedure. Personal delivery or deposit in the United States mail, postage prepaid, of a written notification to the affected employee of the appointing authority's decision shall constitute completion of the departmental due process procedure. An appeal of a decision or action of the administrator or staff must be filed at the office of the Commission within thirty-five (35) calendar days of personal delivery of notice of the decision or action, deposit of the notice in the United States mail, postage prepaid, or deposit of the notice in Statehouse mail. (~~3-30-01~~)(\_\_\_\_)

**04. Non-Jurisdictional Appeals.** Appeals which are non-jurisdictional may be dismissed without motion by the hearing officer, the Chair of the Commission, or his or her designee. If a hearing officer orders such a dismissal, the dismissal may be appealed to the Commission as a petition for review pursuant to Rule 202.01. If the Chair of the Commission orders such a dismissal, it constitutes the final order of the Commission and may be appealed pursuant to Sections 67-5317(3) and 67-5318, Idaho Code. (\_\_\_\_)

**045. Setting Of Hearing.** Within ~~thirty~~ fifteen (30) days after receiving the appeal from the Commission, the hearing officer shall consult with the parties to set a mutually agreeable date for hearing. The hearing officer may thereafter postpone or continue the hearing for good cause. (~~7-1-87~~)(\_\_\_\_)

**056. Filing Of Documents.** Once an appeal is referred to the hearing officer, all documents relating thereto shall be filed directly with the hearing officer during the pendency of the appeal. Copies of all documents submitted shall be provided simultaneously to opposing counsel and unrepresented parties. (7-1-87)

**067. Burden Of Proof.** In disciplinary actions, the appointing authority has the burden of proving cause for the discipline by a preponderance of the evidence. In all other actions, the appellant has the burden of proof by a preponderance of the evidence. (7-1-87)

**078. Open Hearing.** Every hearing shall be public, unless the hearing officer closes the hearing for good cause. Individual parties may ~~be represented by~~ themselves (pro se) or be represented by an attorney. (~~7-1-87~~)(\_\_\_\_)

**089. Protective Orders.** The hearing officer may issue protective orders limiting access to information obtained in the course of a hearing. (7-1-93)

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**0910. Decision Of Hearing Officer.** The hearing officer shall issue a decision in the form of a preliminary order ~~pursuant to Section 67-5245, Idaho Code.~~ The preliminary order shall explain the right to file a petition for review under Section 67-5317, Idaho Code. The preliminary order, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings shall be filed at the office of the Commission. A copy of the hearing officer's decision shall be promptly sent or delivered to the parties. A motion for reconsideration under Section 67-5243, Idaho Code, is not permitted. (7-1-94)(\_\_\_\_)

**101. Procedure For Award Of Attorney Fees And Costs.** ~~If the hearing officer finds in favor of the employee in whole or in part, the hearing officer shall make a finding as to whether or not the state agency acted without a reasonable basis in fact or law. As part of his preliminary order, the hearing officer shall make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the employee hearing officer finds a prevailing party is entitled to statutory attorney fees and costs, counsel for the employee the prevailing party shall file a memorandum of costs, including a supporting affidavit stating the basis and method of computation of the amount claimed. The memorandum shall be filed with the hearing officer not later than ten (10) working days after receipt of the hearing officer's decision or no attorney fees and costs shall be awarded. Objections to the award of attorney fees and costs shall be filed not later than ten (10) working days after receipt of the memorandum of costs and supporting affidavit. The hearing officer shall conduct a hearing on the award of attorney fees and costs within ten (10) days of receiving any objections to the award. If no objections are timely filed with the hearing officer, or if the parties stipulate to have the matter decided on the briefs, no hearing shall be required. The state agency shall then have ten (10) working days to file objections.~~ The hearing officer shall determine the amount of the award and shall make written findings as to the basis and reasons for the award within ten (10) days after the hearing on the award of attorney fees and costs. If no hearing is required, the hearing officer shall issue his/her decision on the award of attorney fees and costs no later than thirty (30) days after receipt of the prevailing party's memorandum of costs and supporting affidavit. A copy of the memorandum of costs shall be served on the parties and filed with the Commission. (7-1-94)(\_\_\_\_)

**142. Factors Considered In Award Of Attorney Fees And Costs.** The following factors shall be considered in the determination of an award of attorney fees and costs: (12-10-90)

- a. The time and labor required; (12-10-90)
- b. The experience and ability of the attorney; (12-10-90)
- c. The prevailing charges for like work; (12-10-90)
- d. The amount involved and the results obtained; (12-10-90)
- e. Awards in similar cases; and (12-10-90)
- f. Any other factor that appears pertinent to the award. (12-10-90)

### **202. PETITION FOR REVIEW PROCEDURE.**

**01. Filing Of Petition For Review.** A petition for review shall be ~~deemed to be timely~~ filed ~~if received or postmarked~~ at the office of the Commission within thirty-five (35) days of the hearing officer's decision issued pursuant to Rule 201.10. The petition shall be in writing and ~~filed at the office of the Commission. The petition for review~~ shall specifically cite the alleged errors of fact or law made by the hearing officer. (7-1-87)(\_\_\_\_)

**02. Stay Of Hearing Officer's Decision.** Upon the filing of the petition for review, the jurisdiction of the hearing officer in the matter is ended except for resolving post-hearing motions and awarding attorney fees and costs. The hearing officer's decision and any orders entered pursuant to Rules 201.0910 and 201.101 shall be automatically stayed. (12-10-90)(\_\_\_\_)

**03. Nature Of Hearing.** The hearing of the Commission on a petition for review shall be limited to oral arguments regarding issues of law and fact as may be found in the record established before the hearing officer and any post-hearing orders. Written arguments or briefs and motions regarding the petition for review shall be allowed under such terms as the Commission may direct in its notice of hearing, which shall be issued at least twenty-

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eight (28) days prior to the date set for hearing.

(12-10-90)

**04. Transcript.** If the petition for review involves questions of fact, the appellant shall provide a full transcript of the proceedings before the hearing officer for the Commission to review. The respondent shall pay for an additional copy of the transcript for respondent's own use. (7-1-87)

**05. Requests For Postponement And Other Motions.**

(7-1-93)

**a.** Except in emergencies, a request for postponement shall be filed in writing by a party or representative not later than seven (7) days before the scheduled hearing. The ~~administrator~~ Chair of the Commission, or his or her designee, may determine whether good cause is shown for the postponement and grant or deny the request on behalf of the Commission. (7-1-87)(\_\_\_\_)

**b.** Motions to dismiss for lack of jurisdiction shall be decided by the Commission. ~~Motion for reconsideration of Commission decisions pursuant to Section 67-5246, Idaho Code are not permitted.~~ All other motions shall be considered by the Chair of the Commission or at the Chair's discretion may be referred by the administrator to one (1) Commissioner, whose decision on the motion may be communicated to the parties by letter or other informal means, by the ~~administrator~~ Chair or by counsel to the Commission. (7-1-94)(\_\_\_\_)

**06. Decision On Petition For Review.** The decision of the Commission shall include a statement of appeal rights under Section 67-5318, Idaho Code. ~~Motion for reconsideration of Commission decisions pursuant to Section 67-5246, Idaho Code are not permitted.~~ The Commission shall file the original copy of its decision with the record of the proceedings and mail copies to the parties ~~immediately~~ promptly. (7-1-93)(\_\_\_\_)

**07. Record Of The Proceedings.** A verbatim record of the proceedings at hearings before the Commission shall be maintained either by electrical devices or by stenographic means, as the Commission may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of reporting the proceedings. (7-1-87)

**08. Attorney Fees And Costs In A Petition For Review.** In its decision on petition for review, the Commission shall make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the Commission finds the prevailing party, if any, is entitled to attorney fees and costs, the prevailing party shall file a request for attorney fees and costs, with accompanying memorandum and affidavit in support of the request described in Rule 201.101, shall be filed with the Commission not later than ten (10) working days after receipt of the Commission's decision. The state agency shall then have ten (10) working days to file objections to the award. Objections to the award of attorney fees and costs shall be filed not later than ten (10) working days after receipt of the request for attorney fees and costs. The Commission shall make findings as to the entitlement to attorney fees and costs, and determine the amount of the award, if any, in its decision on the petition for review, taking into account the factors defined in Rule 201.142. (7-1-94)(\_\_\_\_)

**09. Protective Orders.** The Commission may issue protective orders limiting access to information in the record. (7-1-93)

### **203. REFERRALS FROM FEDERAL AGENCIES ON DISCRIMINATION COMPLAINTS.**

The Division of Human Resources shall take prompt action to investigate complaints received from federal agencies alleging violation of federal and/or state employment laws. The appointing authority will take necessary actions to ensure the investigation is thorough, staff are fully cooperative, and submit findings and any corrective action plan to the administrator and other proper authorities. (\_\_\_\_)

**01- Referral.** ~~Upon the referral of a complaint based on alleged discrimination by a department or employee from the appropriate federal agency to the department, a departmental procedure established for this purpose and an appeal to the hearing officer of the Idaho Personnel Commission shall constitute the "applicable internal review procedure" referred to in the applicable federal regulations. Except as modified herein, the procedures, remedies, and process under Rule 200 remain intact.~~ (3-30-01)

**02- Departmental Procedure.** ~~The director of the department, immediately upon receipt of the complaint, shall notify the complainant of his or her right to use the procedure set forth herein to resolve the~~



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~~complaint. A panel or designated person shall take testimony or written evidence regarding the complaint as is necessary to fully discuss the circumstances surrounding the alleged act of discrimination. A written report in sufficient detail to allow subsequent reviewers to understand the allegations shall be compiled from the testimony and evidence adduced at the hearing. The person or panel may make such recommendations to the director of the department as it sees fit. The department director shall receive and consider the report and issue a decision based upon it. If the resolution is satisfactory to all parties, the federal agency will be notified the complaint has been resolved and forward a copy of the decision and acquiescence of the parties to it.~~ (7-1-87)

**03. ~~Petition To Hearing Officer.~~** (7-1-93)

~~a. If the decision of the director is unacceptable to the complainant, he or she may petition for review by the hearing officer of the Idaho Personnel Commission. The petition shall state the grounds for disagreement with the director's decision and be accompanied by a copy of the report and director's decision.~~ (8-1-81)

~~b. Oral argument on behalf of the respective parties may be offered if it is requested. The decision of the hearing officer shall be the final administrative review under the "applicable internal review procedure". If the resolution is satisfactory to all parties, the appropriate federal agency shall be notified. If the resolution is unsatisfactory, the complaint shall be referred back to the originating federal agency for resolution.~~ (6-30-78)

~~04. **Time.** In no event shall this process take more than sixty (60) days, except upon agreement between the parties and appropriate federal agency.~~ (6-30-78)

**204. -- 209. (RESERVED).**

**210. PERFORMANCE EVALUATIONS.**

**01. Performance Evaluations.** Each department shall adopt and maintain a system of employee performance evaluations provided it meets the basic objectives of the state's performance evaluation system as approved by the administrator. (3-30-01)

**02. Approval Of Form.** The Division of Human Resources' staff shall make available a standard format for this purpose, ~~but a~~ An appointing authority may utilize another form provided it meets the basic ~~objectives of this rule~~ performance criteria and ratings and is approved by the administrator. (4-5-85)(\_\_\_\_)

**03. Purpose.** The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established ~~work standards~~ expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All ~~ratings~~ appraisals shall be discussed with affected employee who shall be allowed opportunity to submit written comments regarding the ~~rating~~ evaluation contents. (4-5-85)(\_\_\_\_)

**04. Use Of Evaluations.** Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments (Ref. Section 67-5309(h), Idaho Code); and used as the affirmative certification for merit increases and bonuses (Ref. Section 67-5309C(b), Idaho Code); and for certifying a probationary employee to permanent status (Ref. Rule 151). Other uses of performance evaluations are optional with the appointing authority. (3-30-01)

**05. Evaluation Schedule.** All classified employees shall be evaluated after one thousand forty (1,040) hours of credited state service from the date of initial appointment or promotion and after each two thousand eighty (2,080) hours of credited state service thereafter. (Ref. Section 67-5309C(b)(ii), Idaho Code.) Part time employees shall be evaluated on an annual basis. (3-30-01)

**06. Retention Of Evaluation.** A copy of the performance evaluation shall be retained in departmental records, and a copy shall be furnished the employee. ~~A copy~~ The performance rating shall be ~~provided~~ transmitted to the administrator, ~~with or without~~ Agency records and supporting documentation are subject to review by the Division of Human Resources. All performance evaluation documents should be copied and forwarded with the employee when an interagency promotion, demotion or transfer occurs. (7-1-94)(\_\_\_\_)

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**07. Supervisors' Requirements.** Supervisors are required to manage performance on a consistent basis including required performance evaluations on all employees under their direct supervision. (\_\_\_\_)

**211. -- 219. (RESERVED).**

### **220. RECORDS.**

**01. Employee Service Records.** (7-1-93)

**a.** For each employee in classified service, the Division of Human Resources' staff shall maintain a service record which shall include ~~a copy of~~ all personnel transactions pertinent to the employee's employment history. (~~4-5-85~~)(\_\_\_\_)

**b.** Service records or a facsimile thereof for classified employees shall be maintained permanently by the administrator. (3-30-01)

**c.** Any employee may at all reasonable times during business hours review his or her service record maintained in the Division of Human Resources or maintained in any department. Except for material used to screen and test for employment, all information maintained in an employee's service record shall be made available to the employee or designated representative upon request. File contents may be corrected if found in error according to the procedure contained in Section 9-342, Idaho Code. (3-30-01)

**02. Administrative Records.** The administrator shall permanently maintain a record ~~or a microfilm facsimile~~ of the proceedings of the ~~Personnel~~ Commission and a record of all hearings of appeals. (~~3-30-01~~)(\_\_\_\_)

**03. Employee Personnel Action Documents.** The appointing authority shall furnish each employee with notice of every personnel action affecting the employee's status, pay, tenure, or other terms and conditions of employment, including a copy of their performance evaluations. (3-30-01)

**04. Transfers, Reemployment And Promotions Between Departments.** When an employee seeks a transfer, reemployment, or promotion between departments or agencies, the appointing authority of the hiring department or agency, or designee, shall be entitled to examine the employee's service record and current agencies performance information before the hiring decision is made. (Ref. Section 67-5309(o), Idaho Code) (~~3-30-01~~)(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

### **240. SICK LEAVE.**

**01. Eligibility.** Sick leave shall be earned in accordance with Section 67-5333, Idaho Code. Sick leave shall only be taken in pay periods subsequent to being earned. (3-30-01)

**02. Interdepartmental Transfer.** An employee who is transferred from one (1) state department to another shall be credited by the receiving department with the amount of sick leave accrued at the time of transfer. (3-30-01)

**03. Reasons For Use.** Sick leave shall only be used in cases of actual illness or disability or other medical and health reasons necessitating the employee's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family. For purposes of this rule, family means a spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. (~~7-1-96~~)(\_\_\_\_)

**04. Medical, Dental, Or Optical Appointments Leave (MDA).** Employees are allowed up to two (2) hours for each occasional appointment without charge to sick leave for personal or family-member medical, dental or

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optical examination or treatment. Occasional appointments are those which are traditionally considered to be preventative, wellness related, or diagnostic. Ongoing treatment for physical or mental illness is not covered by MDA. Use of this benefit may be limited by the appointing authority on a case by case basis where frequency of use is impeding organizational effectiveness or misuse is suspected. If more than two (2) hours are needed for appointments additional time may be charged to sick leave. (3-30-01)( )

**05. Serious Medical Conditions.** Sick leave may be used in conjunction with Family and Medical Leave. (Ref. Rule 242) (3-30-01)

**06. Notification.** It is the responsibility of the employee to notify his or her supervisor as soon as possible in the event of sickness or injury which prevents the employee from reporting for duty. (4-5-85)

**07. Donated Leave.** Vacation leave may be transferred to another employee for the purposes of sick leave in accordance with Section 67-5335(7), Idaho Code. Such transfers are to be made from employee to employee. Vacation leave is retained by the donating party until it is converted to sick leave in the receiving employee's account. ( )

**08. Sick Leave Abuse.** A predictable and reliable level of attendance is an essential function of almost all positions. Consistent with the provisions of the Americans with Disabilities Act and the Family Medical Leave Act, a supervisor may investigate suspected sick leave abuse including a pattern of unscheduled absences which have a negative impact on the requirements of the job and take appropriate action. (Rule 190.01.k. and 190.01.l). When an employee is absent due to illness or injury in excess of three (3) days, a doctor's certificate of justifiable cause for the absence may be required of the employee at the discretion of the immediate supervisor. A doctor's certification of illness or injury may be required of an employee for periods of less than three (3) consecutive working days whenever the immediate supervisor or manager believes special investigation of the absence should be made. (Ref. Section 67-5333, Idaho Code) ( )

### **241. WORKERS COMPENSATION AND DISABILITY.**

**01. Use Of Leave In A Workers Compensation Claim.** In the event of a disability incurred on the job covered by workers compensation, the employee shall be given the choice of either: 1) leave of absence without pay while receiving workers compensation; or 2) utilizing a portion of accrued sick leave to supplement workers compensation to maintain his or her regular salary. No appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his or her rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (4-5-85)

**02. Layoff After Six Months' Disability.** If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to return to work after six (6) months' absence or when accrued sick leave has been exhausted, whichever is longer, the employee's position shall be declared vacant unless precluded by federal law. (Ref. Rule 101.01) The period of absence is not interrupted by the employee's full return to work for less than two (2) consecutive work weeks. Return to work as part of a rehabilitation program does not interrupt the calculation of the period of absence. (3-30-01)( )

**a.** The disabled employee's name ~~retention points need not be calculated unless there are other employees on the~~ shall be placed on the departmental layoff ~~register in the same class~~ list. The employee shall be entitled to reemployment preference pursuant to Rules 145 and 146 and reinstatement privileges provided under Rule 1254 when released by his or her physician to return to work. (12-10-90)( )

**b.** The disabled employee's name shall be certified to a ~~layoff~~ register with reemployment preference when the administrator has been notified by the physician that the employee is able to return to work. Conditional releases will be considered in accordance with the Americans with Disabilities Act. (3-30-01)( )

### **242. FAMILY AND MEDICAL LEAVE.**

**01. Applicability.** The provisions of the federal Family and Medical Leave Act (FMLA) shall apply

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without regard to the exclusion for worksites employing less than fifty (50) employees in a seventy-five (75) mile area, and without the limitation on reinstatement of the highest-paid employees. (Ref. 29 U.S.C. 2601 et seq.). The State is one (1) employer for the purposes of FMLA. For consistency, the administrator shall publish statewide guidance on FMLA policies. (7-1-94)(\_\_\_\_)

**02. Return To Work Release.** An appointing authority may request a return to work release if, due to the nature of the health condition and the job: (3-30-01)

a. Light or limited duty work or other accommodation is requested; or (7-1-94)(\_\_\_\_)

b. The agency, having a reasonable basis in fact to do so, requires assurance that returning to work would not create a significant risk of substantial harm to the employee or others. (7-1-94)

### **243. MATERNITY AND PATERNITY LEAVE.**

**01. Use Of Sick Leave.** Disabilities caused or contributed to by pregnancy, child birth or related medical conditions are considered temporary disabilities and shall be treated as such for sick leave purposes. Maternity and paternity leave shall be granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. (3-30-01)(\_\_\_\_)

**02. Determination Of Disability Period.** The employee's physician shall be considered the ~~sole~~ primary authority in determining the disability period insofar as compensable sick leave is concerned. (4-5-85)(\_\_\_\_)

**03. Additional Time Off.** Maternity and paternity leave preceding and following the time that the ~~employee~~ person is disabled shall be leave without pay unless the employee elects to use accrued vacation leave, earned administrative leave or compensatory time off for overtime. (3-30-01)(\_\_\_\_)

**04. Discrimination Prohibited.** Pregnancy discrimination is prohibited. The employee may continue to work as long as she is physically capable of performing the duties of her position and may return to work as soon as she is physically able as determined by her physician. (3-30-01)

**05. Adoption and Foster Care.** Leave will be granted for adoption and foster care as set forth in the Family and Medical Leave Act. (Ref. Rule 242) (3-30-01)

### **244. SEPARATION UPON FAILURE TO RETURN TO WORK.**

Except for those employees on authorized leave or placed on a layoff register list as prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) days after approved paid or unpaid leave or release by his or her physician shall be considered as having ~~resigned~~ abandoned his or her job. Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement as provided under Rule 1254. Written notification of his or her resignation shall be mailed to the last known home address. Any objections by the employee to this resignation requires the agency to pursue dismissal under Rule 190. (3-30-01)(\_\_\_\_)

### **245. -- 249. (RESERVED).**

### **250. SPECIAL LEAVES.**

**01. Leave Of Absence Without Pay.** (7-1-93)

a. Approval. ~~An employee may, at the discretion of~~ In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority, ~~be may granted an employee~~ leave without pay for a specified length of time when such leave would not have an adverse effect upon the department. The request for leave must be in writing and must establish reasonable justification for approval. (4-5-85)(\_\_\_\_)

b. Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

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c. Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave, earned administrative leave or compensatory time off for overtime before commencing leave is the appointing authority's option without pay. (Ref. Rule 240) (7-1-87)(\_\_\_\_)

d. Resignation. If vacation leave, earned administrative leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he or she shall be paid for such accruals in accordance with Sections 67-5337 and 67-5329(3), Idaho Code. (7-1-87)

#### **02. Leave Of Absence To Assume A Nonclassified Position.** (7-1-93)

a. Approval. An appointing authority may approve a leave of absence without pay may be granted from classified service to a classified employee to assume a nonclassified position in state service. Such leave of absence shall not extend beyond the time the employee would be eligible for reinstatement to classified service and ninety (90) days past the service of the appointing authority. (Ref. Rule 1254.01.a.) (7-1-87)(\_\_\_\_)

b. Credited State Service. An employee ~~returning from a~~ on leave of absence ~~granted~~ to assume a nonclassified position ~~shall be allowed classified~~ continues to accrue credited state service ~~for the leave in the class from which he or she was granted the leave of absence. Credit shall not exceed time limits established above.~~ (4-5-85)(\_\_\_\_)

03. **Leave Defaults.** When an employee does not have accrued sick ~~or vacation~~ leave to cover an entire absence ~~that is attributed to sick or vacation leave, respectively,~~ the following leave types shall be used to the extent necessary to avoid leave without pay: accrued compensatory time; earned administrative leave; vacation. If abuse of sick leave is suspected see Rule 240.08. (7-1-87)(\_\_\_\_)

04. **Military Leave With Pay.** Employees who are members of the national guard or reservists in the armed forces of the United States who are directed by proper military authority to participate in ordered and authorized field training under the National Defense Act shall receive military leave with pay for a maximum fifteen (15) working days in any one (1) calendar year. Such leave is exclusive of vacation and sick leave and compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (4-5-85)

05. **Military Leave Without Pay.** An employee whose employment is reasonably expected to continue indefinitely, and who leaves his or her position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Rule 1254.05. The employee shall either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (3-30-01)(\_\_\_\_)

06. **Administrative Leave With Pay.** At the discretion of the appointing authority, an employee may be granted administrative leave with pay when such leave is in the best interest of the department. (4-5-85)

#### **07. Earned Administrative Leave.** (7-1-93)

a. Authority for Use. In any week that an employee would be compensated an amount greater than forty (40) hours times the employee's regular rate of pay, an appointing authority may allow the employee to accumulate earned administrative leave to the extent necessary to reduce the cash compensation to forty (40) hours. An appointing authority may allow a part-time employee to accumulate earned administrative leave for the hours worked between the regularly-scheduled hours and forty (40) hours. Earned administrative leave shall be calculated based on one hundred sixty (160) hours for police, correctional officers, and fire employees pursuant to Rule 073.02. (3-30-01)

b. Ineligible Employees. Employees who are ineligible for cash compensation and compensatory time for overtime work are ineligible for earned administrative leave. (Ref. Section 67-5329(1), Idaho Code). (12-10-90)

c. Payment and Credited State Service. Earned administrative leave (EAL) balances shall be paid upon transfer or separation. Hours of EAL shall accrue credited state service when worked. (3-30-01)

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**08. Court And Jury Services And Problem-Solving And Due Process Leave. (7-1-98)**

**a.** Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he or she shall not be considered absent from duty. The employee shall not be entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee shall be reimbursed by his or her respective department in accordance with ~~state department~~ travel regulations. ~~(12-10-90)( )~~

**b.** Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee shall be permitted to attend. The employee may use accrued leave or leave without pay. (3-30-01)

**c.** Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he or she shall be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee shall be entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (7-1-87)

**d.** Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by a departmental problem-solving or due process procedure or to appear as a witness or representative during such a proceeding shall be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (7-1-98)

**e.** Notification. An employee summoned for court and jury service or requested to serve as a grievance panelist, witness, or representative shall notify his or her supervisor as soon as possible to obtain authorization for leave of absence. (7-1-87)

**09. Election Leave.** When requested by an employee, an appointing authority shall grant leave with pay, without charge to vacation leave or compensatory time off for overtime, for voting in primary, general, municipal, school, or special elections in those instances where the employee's work would interfere with his or her being able to vote. (4-5-85)

**10. Religious Leave.** Appointing authorities shall make reasonable accommodations to an employee's need for leave for religious observances. Such leave shall be charged to the employee's accrued vacation leave or compensatory time off for overtime. (4-5-85)

**11. Leave During Facility Closure Or Inaccessibility. (7-1-93)**

**a.** Authorization. When a state facility is closed or declared inaccessible because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees shall be authorized administrative leave with pay (Ref. Rule 250.06) to cover their scheduled hours of work during the closure or inaccessibility. (4-5-85)

**b.** Compensation for extra hours worked. An employee who works at a state facility during declared closure or inaccessibility shall be, in addition to regular salary, granted time off equal to the number of hours worked. If overtime is involved, it shall be compensated as provided by Section 67-5329, Idaho Code. (4-5-85)

**c.** Early release. When ~~a severe storm occurs during the day, and~~ the appointing authority or designated representative authorizes early release of employees pursuant to Rule 250.11.a., the resulting time off shall be charged to administrative leave with pay. (Ref. Rule 250.06) ~~(4-5-85)( )~~

**12. Red Cross Disaster Services Leave.** Employees who have been certified by the American Red Cross as disaster service volunteers shall be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (3-30-01)

**13. Employee Assistance Program Leave.** Up to two (2) hours per visit shall be granted for utilization of the Employee Assistance Program (EAP) during normal working hours. This leave is limited to the number of free program visits provided in the state's Behavioral Health Program. EAP leave shall be coded as MDA. (Ref. Rule 240.04). (3-30-01)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

**(BREAK IN CONTINUITY OF SECTIONS)**

**272. POLICY MAKING AUTHORITY.**

To address the need for all classified employees to be treated equally, and in situations where the State may be considered as one (1) employer, the Division of Human Resources Administrator may issue guidance to provide consistent interpretation of federal law, state law, executive order or rule. ( )

**273. MINIMUM HUMAN RESOURCE POLICIES.**

In order to ensure consistent minimum standards for employee rights and responsibilities under federal law, Idaho Code, and executive orders, each agency is required to have policies on the following, and take steps needed to inform employees of their rights and responsibilities under those same policies. If an appointing authority does not provide employees with the agency specific policy, a model policy issued by Division of Human Resources will apply. ( )

**01. Problem Solving.** (Ref. Rule 200) ( )

**02. Due Process.** (Ref. Rule 200.01.a.) ( )

**03. Compensation.** (Ref. Rule 073.06) ( )

**04. Reasonable Accommodations/ADA.** (Ref. Rule 021) ( )

**05. Sexual Harassment And Other Illegal Discrimination.** (Ref. Rule 021) ( )

**06. Conflict Of Interest - Nepotism.** (Ref. Rule 024 and 025) ( )

**07. Drugfree Workplace.** (Ref. Rule 190.01.f.) ( )

**274. -- 999. (RESERVED).**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 18 - DEPARTMENT OF INSURANCE**

#### **18.01.15 - FINGERPRINTING OF AGENTS, SOLICITORS AND BROKERS**

**DOCKET NO. 18-0115-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule has been adopted to allow, but not require, the Director to perform a fingerprint background check on applicants for a producer license. It provides the Director flexibility to meet requirements for reciprocity with other states for nonresident producer licensing and eliminates language that required fingerprint background checks on all producer license applicants.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-8, August 6, 2003, pages 109 and 110.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rule, contact Jim Genetti at (208) 334-4250.

Dated this 30th day of September, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Facsimile No. (208) 334-4298

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#### **IDAPA 18, TITLE 01, CHAPTER 15**

#### **FINGERPRINTING OF AGENTS, SOLICITORS AND BROKERS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-8, August 6, 2003, pages 109 and 110.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**



## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 18 - DEPARTMENT OF INSURANCE**

#### **18.01.15 - FINGERPRINTING OF AGENTS, SOLICITORS AND BROKERS**

**DOCKET NO. 18-0115-0301**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is July 1, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 41-211, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than August 20, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Sections 41-1007 and 41-1009, Idaho Code, allow, but do not require the Director to perform a fingerprint background check on applicants for a producer license. In order to provide the Director flexibility to meet requirements for reciprocity with other states for nonresident producer licensing, the temporary and proposed rule will amend IDAPA 18.01.15.016 to eliminate language that required fingerprint background checks on all producer license applicants. This will allow the Director to discontinue performing fingerprint background checks on nonresident producers who have met the licensing requirements of their home state, and remove a possible obstacle to reciprocity for Idaho resident producers who seek to become licensed as nonresident producers in other states. The temporary and proposed rule also eliminates the requirement that the fingerprints be taken by a law enforcement agency and obsolete references to agents, brokers and solicitors.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rule confers a benefit by easing application requirements on nonresident producers and enhancing the likelihood of reciprocal treatment by other states for Idaho resident producers.

**FEE SUMMARY:** The rule does not impose a fee.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 03.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Jim Genetti at (208) 334-4250.

Anyone may submit written comments regarding these rules. All written comments and data concerning the rule must be directed to the undersigned and must be received on or before August 27, 2003.

Dated this 17th day of June, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720, Boise, ID 83720-0043  
Telephone No. (208) 334-4250  
Facsimile No. (208) 334-4298

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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DEPARTMENT OF INSURANCE  
Fingerprinting of Producer License Applicants

Docket No. 18-0115-0301  
Temporary and Proposed Rule

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0115-0301

### IDAPA 18, TITLE 01, CHAPTER 15

#### 18.01.15 - FINGERPRINTING OF ~~AGENTS, SOLICITORS AND BROKERS~~ PRODUCER LICENSE APPLICANTS

##### 016. FINGERPRINTING REQUIREMENTS.

"All ~~agents, brokers and solicitors shall be finger-printed by a duly authorized law enforcement officer and~~ producer license applicants who are required by the director to submit fingerprints shall file a set of their fingerprints with the Department of Insurance in a form acceptable to the Federal Bureau of Investigation for the purpose of determining whether the qualifications as set forth in the Idaho Code are fulfilled. The fee, if any, charged ~~by the law enforcement agency~~ for ~~this~~ the fingerprinting service must be paid by the applicant. These fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for processing. ~~This rule shall apply to all agents, brokers and solicitors and this requirement shall be completed before issuance or renewal of any license or company appointment.~~ (7-1-93)(7-1-03)T

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 18 - DEPARTMENT OF INSURANCE**

#### **18.01.19 - INSURANCE RATES AND CREDIT RATING**

**DOCKET NO. 18-0119-0201**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EDITOR'S CORRECTION:** This docket was published with an incorrect docket number (Doc # 18-0119-0301) as a proposed rule in the Idaho Administrative Bulletin, Vol. No. 03-9, September 3, 2003. The docket number should have been 18-0119-0201. The docket originally published in the Administrative Bulletin as a Negotiated Rulemaking in the June 5, 2002, Vol. 02-6 and also as a Temporary Rule in the January 1, 2003, Vol. 03-1.

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211 and 41-1843, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This rule will implement Section 41-1843, Idaho Code, relating to the use of credit rating or credit history by insurers in determining rating and coverage of insurance, which became effective January 1, 2003.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-9, September 3, 2003, page 189 through 192.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Shad Priest at (208) 334-4250.

Dated this 30th day of September, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720, Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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### **IDAPA 18, TITLE 01, CHAPTER 19**

#### **INSURANCE RATES AND CREDIT RATING**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 189 through 192.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 18 – DEPARTMENT OF INSURANCE

#### 18.01.19 - INSURANCE RATES AND CREDIT RATING

DOCKET NO. 18-0119-0301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-1843, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be scheduled if requested in writing by at least twenty-five (25) persons, a political subdivision or an agency, not later than September 17, 2003.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule will implement Section 41-1843, Idaho Code, relating to the use of credit rating or credit history by insurers in determining rating and coverage of insurance, which became effective January 1, 2003. The proposed rule limits how insurers may use an insured's credit history as a basis for nonrenewing, canceling, or declining to issue certain types of policies, or charging a higher premium rate than would otherwise be charged. It is identical to the temporary rule IDAPA 18.01.19 that has been in effect since January 1, 2003.

In January 2003, the Department of Insurance adopted this rule as a temporary rule with an effective date of January 1, 2003. The temporary rule was published in the Idaho Administrative Bulletin, Volume 03-1, January 1, 2003, pages 156 through 158. With this publication the Department is initiating proposed rulemaking.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted. The Notice of Negotiated Rulemaking was published in the June 5, 2002 Idaho Administrative Bulletin, Volume 02-6, page 41.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the proposed rule, contact Shad Priest at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

Dated this 23rd day of July, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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Pursuant to Section 67-5221(1) this docket is being published as a Proposed Rule.

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

This docket has been previously published as a Temporary Rule.  
The temporary effective date is January 1, 2003.

The original text of the Temporary Rule was published in the Idaho  
Administrative Bulletin, Volume 03-1, January 1, 2003,  
pages 156 through 158.

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### THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0119-0201

#### **IDAPA 18** **TITLE 01** **CHAPTER 19**

#### **18.01.19 - INSURANCE RATES AND CREDIT RATING**

##### **000. LEGAL AUTHORITY.**

This rule is promulgated pursuant to the authority granted by Title 41, Sections 41-211 and 41-1843, Idaho Code.

( )

##### **001. TITLE AND SCOPE.**

**01. Title.** This chapter shall be cited in full as IDAPA 18.01.19, "Insurance Rates and Credit Rating".

( )

**02. Scope.** This rule implements Section 41-1843, Idaho Code, enacted as Senate Bill No. 1408 by the legislature in 2002 relating to the use of credit rating or credit history by insurers in determining rating and coverage of insurance.

( )

##### **002. WRITTEN INTERPRETATIONS.**

The Department of Insurance may have written statements that pertain to the interpretation of the rules in this chapter. Any written statements shall be available for review at the Department of Insurance, 700 W. State Street, Boise, ID 83720.

( )

##### **003. ADMINISTRATIVE APPEALS.**

All hearings before the Director of the Department of Insurance shall be governed by Chapter 2, Title 41, and Chapter 52, Title 67, Idaho Code. Any appeal from a decision of the Director can be taken to District Court pursuant to Chapter 52, Title 67, Idaho Code and the Idaho Rules of Civil Procedure.

( )

##### **004. INCORPORATION BY REFERENCE.**

No documents have been incorporated by reference into these rules.

( )

##### **005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS.**

This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The department's mailing address is: Idaho Department of Insurance, PO Box 83720, Boise, Idaho 83720-0043. The principal place of business is 700 West State Street, 3<sup>rd</sup> Floor, Boise, Idaho 83702-0043.

( )

##### **006. PUBLIC RECORDS.**

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

3, and Title 41, Idaho Code. ( )

**007. – 009. (RESERVED).**

**010. DEFINITIONS.**

As used in this rule, unless the context requires otherwise, the following words shall have the following meanings: ( )

**01. Consumer Report.** Any written, oral, or other communication of any information by a consumer reporting agency regulated under the federal Fair Credit Reporting Act (15 U.S.C. 1681) that bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living. ( )

**02. Credit Factor.** A factor or criterion that consists of or is derived from information obtained from a consumer report that is used by an insurer in determining policy premium rates, or in determining whether to issue, cancel or nonrenew a policy. ( )

**03. Department.** The Idaho Department of Insurance. ( )

**04. Noncredit Factor.** Any factor other than a credit factor that is reasonably expected to affect the risk assumed by an insurer and is used by the insurer in determining policy premium rates, or in determining whether to issue, cancel or nonrenew a policy. ( )

**05. Policy.** A contract for property or casualty insurance, as defined by Chapter 5, Title 41, Idaho Code, that is purchased or maintained primarily for personal, family or household purposes. ( )

**06. Weight.** The consideration given by an insurer to a particular credit or noncredit factor relative to other factors considered in the underwriting or rating process. ( )

**011. -- 099. (RESERVED).**

**100. USE OF CREDIT FACTORS.**

**01. Prohibited Acts.** An insurer shall not charge a higher premium than would otherwise be charged, or cancel, nonrenew or decline to issue a policy, based in any part upon credit factors unless: ( )

**a.** The decision is also based on a noncredit factor or factors; and ( )

**b.** The aggregate weight given to the noncredit factors considered in making the decision is at least as great as the aggregate weight given to the credit factors considered in making the decision. ( )

**02. Application Of Rule.** To determine whether a decision to issue, nonrenew or cancel a policy, or to charge a higher rate than would otherwise be charged, is based primarily upon a credit factor or factors, the Department will apply the following criteria: ( )

**a.** If an insurer declines to issue, nonrenews or cancels a policy based in any part upon a credit factor, the insurer must be able to show that it also relied upon a noncredit factor or combination of noncredit factors in making the decision and that the noncredit factor(s) played at least as great a role in the decision as did the credit factor. ( )

**b.** If an insurer relies in any part upon a credit factor in establishing an initial rate for new business, the insurer must be able to show that it also considered noncredit factors in establishing the initial rate and that not more than one-half (½) of the premium rate is attributable to the credit factor. ( )

**c.** If an insurer relies in any part upon a credit factor to impose an increase in premium rate for a customer, the insurer must be able to show that the increase was also based upon a change in at least one noncredit factor and that not more than one-half (½) of the increase is attributable to the credit factor. ( )

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

**03. Information Used In Reviewing Insurer's Decision.** To evaluate whether an underwriting or rating decision was based primarily upon credit factors, the department may require the insurer to explain in detail the insurer's underwriting or rating process, identify all factors considered in the process, and describe how the process was applied in the case under review. The department may also require the insurer to apply its underwriting or rating process to hypothetical cases submitted to the insurer by the Department. ( )

**101. -- 199. (RESERVED).**

**200. OTHER LAWS OR RULES.**

Nothing in this rule shall be construed to limit or modify any other laws or rules imposing restrictions regarding rating, issuing, canceling or nonrenewing a policy. ( )

**201. -- 299. (RESERVED).**

**300. TRADE SECRETS.**

Any information submitted by an insurer pursuant to this rule that the insurer considers to be a trade secret as defined by Section 9-340D, Idaho Code, and not subject to public disclosure, shall be clearly identified as such at the time it is submitted to the department. ( )

**301. -- 399. (RESERVED).**

**400. RETENTION OF RECORDS.**

Insurers subject to this rule shall document the factors and criteria considered in underwriting and rating decisions and shall retain the documentation for at least five (5) years from the date of the decision. ( )

**401. -- 499. (RESERVED).**

**500. VIOLATIONS.**

A failure to comply with this rule is a violation of Section 41-1843, Idaho Code. ( )

**501. -- 999. (RESERVED).**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 18 - DEPARTMENT OF INSURANCE**

#### **18.01.38 - INSURANCE AVAILABILITY FOR RIDESHARING ARRANGEMENTS**

##### **DOCKET NO. 18-0138-0301 - (CHAPTER REPEAL)**

##### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This chapter is being repealed in its entirety because it is no longer needed. The chapter references and implements sections of the Idaho Code relating to ridesharing that are no longer in existence.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-10, October 1, 2003, page 330.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Shad Priest at (208) 334-4250.

Dated this 22nd day of October, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720, Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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### **IDAPA 18, TITLE 01, CHAPTER 38**

#### **INSURANCE AVAILABILITY FOR RIDESHARING ARRANGEMENTS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, page 330.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**



## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 18 - DEPARTMENT OF INSURANCE**

#### **18.01.38 - INSURANCE AVAILABILITY FOR RIDESHARING ARRANGEMENTS**

##### **DOCKET NO. 18-0138-0301 (CHAPTER REPEAL)**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 41-211, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearings concerning this rulemaking will be scheduled if requested in writing by at least twenty-five (25) persons, a political subdivision or an agency, not later than October 15, 2003.

The hearing site will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency at the address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This chapter is being repealed in its entirety because it is no longer needed. The chapter references and implements sections of the Idaho Code relating to ridesharing that are no longer in existence.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

The rule does not impose or increase a fee.

**NEGOTIATED RULEMAKING:** Negotiated rulemaking was not undertaken because the Idaho code sections upon which the rule was based are no longer in existence.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the proposed rule, contact Shad Priest at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

Dated this 12th day of August, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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**IDAPA 18.01.38 IS BEING REPEALED IN ITS ENTIRETY.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 18 - DEPARTMENT OF INSURANCE**

#### **18.01.53 - RULES GOVERNING CONTINUING EDUCATION**

**DOCKET NO. 18-0153-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted to meet national uniformity standards set forth by the NAIC by changing the continuing education requirement for resident licensed insurance producers.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-9, September 3, 2003, page 193 through 195.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the pending rule contact Jim Genetti at (208) 334-4250.

Dated this 30th day of September, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street – 3rd floor  
P.O. Box 83720  
Boise, Idaho 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

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### **IDAPA 18, TITLE 01, CHAPTER 53**

#### **RULES GOVERNING CONTINUING EDUCATION**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 193 through 195.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 18 - DEPARTMENT OF INSURANCE

#### 18.01.53 - RULES GOVERNING CONTINUING EDUCATION

DOCKET NO. 18-0153-0301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** These temporary rule changes are effective January 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 41-211, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule-making will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The rule is being amended to meet national uniformity standards set forth by the NAIC by changing the continuing education requirement for resident licensed insurance producers to a standard fixed amount of twenty-four hours of continuing education per two-year licensing period and to require a minimum of three hours in the subjects of insurance law and/or ethics for each two year licensing period. In addition, obsolete references to brokers and agents are changed to "producers."

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule confers a benefit to the public.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the change adopts standards prescribed by the National Association of Insurance Commissioners and reduces the number of continuing education hours required for licensed insurance producers.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule contact Jim Genetti at (208) 334-4250.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

Dated this 24th day of July, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street – 3<sup>rd</sup> floor  
P.O. Box 83720  
Boise, Idaho 83720-0043  
Telephone No. (208) 334-4250  
Fax: (208) 334-4398

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0153-0301

#### 001. TITLE AND SCOPE.

The purpose of this rule is to help protect the public by maintaining high standards of professional competence in the insurance industry; and to maintain and improve the insurance skills and knowledge of ~~agents, brokers, and consultants~~ producers licensed by the Department of Insurance by prescribing a minimum education in approved subjects that a licensee must periodically complete, procedures and standards for the approval of such education, and a procedure for establishing that continuing education requirements have been met. ~~(7-1-98)(1-1-04)T~~

### (BREAK IN CONTINUITY OF SECTIONS)

#### 012. BASIC REQUIREMENTS.

**01. Proof Of Completion.** As a condition for the continuation of a license, a licensee must furnish the Director of the Department of Insurance ("Director"), on or before the licensing renewal date, proof of satisfactory completion of approved subjects or courses meeting the following requirements: (4-5-00)

a. ~~Forty~~ Twenty-four (24) hours of continuing education credit during each ~~of the first three (3)~~ licensing periods, which licensing period is for two (2) years. ~~(4-5-00)(1-1-04)T~~

b. ~~After the third license renewal period at least twelve (12) hours of continuing education credits must be earned for each line of licensure during each successive renewal period, with a maximum of forty (40) hours for all lines held. At least three (3) hours of continuing education credit in insurance law and/or ethics must be earned each licensing period.~~ ~~(4-5-00)(1-1-04)T~~

**02. Relicensing Procedures After Voluntary Termination Of License.** An insurance agent who voluntarily terminates his/her license can apply to be relicensed without testing if the application is received by the Department within twelve (12) months after the termination and if the continuing education requirements were completed during the licensing period prior to voluntary termination. Non-resident insurance agents who were former resident agents and who wish to obtain a resident license once again, will be subject to the continuing education requirements on a pro-rata basis. (4-5-00)

~~**03. Carry Over Of Credits.** A licensee may carry over credit hours that have been earned in excess of the hours needed to fulfill the continuing education requirement. However, a licensee may only use carry over credits to fulfill one-half (1/2) of the continuing education requirement. The licensee should submit only the required number of hours and indicate dates of completion. It is the responsibility of the licensee to keep track of earned credit hours and documentation to verify proof of completion.~~ ~~(4-5-00)~~

~~**043. Completion Within Two Years.** Each course to be applied toward satisfaction of the continuing education requirement must have been completed within the two (2) year period immediately preceding renewal of the license, except carryover credits as defined in Subsection 012.03. Courses may not have been duplicated in the same renewal period. The date of completion for a self-study course is the date of successful completion of exam.~~ ~~(5-3-03)(1-1-04)T~~

### (BREAK IN CONTINUITY OF SECTIONS)

#### 016. PROGRAMS WHICH QUALIFY.

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**DEPARTMENT OF INSURANCE**  
**Rules Governing Continuing Education****Docket No. 18-0153-0301**  
**Temporary and Proposed Rulemaking**

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**01. Requirements Of Acceptable Program.** A specific program will qualify as an acceptable continuing education program if it is a formal program of learning which contributes directly to the professional competence of a licensee. It will be left to each individual licensee to determine the course of study to be pursued. All programs must meet the standards outlined in Section 018. (7-1-93)

**02. Subjects Which Qualify.** (7-1-93)

**a.** The following general subjects are acceptable as long as they contribute to the knowledge and professional competence of an individual licensee as ~~an agent, broker, or consultant~~, a producer and demonstrate a direct and specific application to insurance. ~~(4-5-00)~~(1-1-04)T

i. Insurance, annuities, and risk management. (7-1-93)

ii. Insurance laws and rules. (7-1-93)

iii. Mathematics, statistics, and probability. (7-1-93)

iv. Economics. (7-1-93)

v. Business law. (7-1-93)

vi. Finance. (7-1-93)

vii. Taxes, Trusts, Estate Planning. (4-5-00)

viii. Business environment, management, or organization. (7-1-93)

ix. Securities. (7-1-98)

**b.** Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute to professional competence and otherwise meet the standards set forth in this rule. The responsibility for substantiating that a particular program meets the requirements of this rule rests solely upon the licensee. (7-1-93)

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 18 - DEPARTMENT OF INSURANCE**

#### **18.01.59 - RULE TO IMPLEMENT THE RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS**

**DOCKET NO. 18-0159-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given this agency has adopted a pending rule. The action is authorized pursuant to Sections 41-211, 41-612 and 41-1927, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This pending rule is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with Sections 41-612(4)(a)(iii) and 41-1927(9)(d)(viii)(B)(6), Idaho Code, IDAPA 18.01.47.005.01 and 005.02.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume No. 03-9, September 3, 2003, page 196 through 200.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Martha Hopper at (208) 334-4250.

Dated this 30th day of September, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720  
Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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#### **IDAPA 18, TITLE 01, CHAPTER 59**

#### **RULE TO IMPLEMENT THE RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 196 through 200.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 18 - DEPARTMENT OF INSURANCE

#### 18.01.59 - RULE TO IMPLEMENT THE RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS

DOCKET NO. 18-0159-0301 (NEW CHAPTER)

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is January 1, 2004.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given this agency has adopted a temporary rule and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 41-211, 41-612 and 41-1927 Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of the supporting reasons for temporary rulemaking:

This is a temporary and proposed rule to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with Sections 41-612(4)(a)(iii) and 41-1927(9)(d)(viii)(B)(6), Idaho Code, IDAPA 18.01.47.005.01 and 005.02.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: The rule confers a benefit.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the rule is based on a model rule developed nationally with the participation of interested parties and is being adopted by states throughout the country.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the temporary and proposed rule, contact Martha Hopper at (208) 334-4250.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

Dated this 23rd day of July, 2003.

Mary L. Hartung, Director  
Idaho Department of Insurance  
700 West State Street - 3rd Floor  
P.O. Box 83720, Boise, ID 83720-0043  
Telephone No. (208) 334-4250

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THE FOLLOWING IS THE TEXT OF DOCKET NO. 18-0159-0301

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

**IDAPA 18**  
**TITLE 01**  
**CHAPTER 59**

**18.01.59 - RULE TO IMPLEMENT THE RECOGNITION OF THE 2001 CSO MORTALITY**  
**TABLE FOR USE IN DETERMINING MINIMUM RESERVE**  
**LIABILITIES AND NONFORFEITURE BENEFITS**

**000. LEGAL AUTHORITY.**

This rule is promulgated and adopted pursuant to the authority granted by Sections 41-211, 41-612 and 41-1927, Idaho Code. (1-1-04)T

**001. TITLE AND SCOPE.**

**01. Title.** This chapter shall be cited in full as IDAPA 18.01.59, "Recognition of the 2001 CSO Mortality Table for Use In Determining Minimum Reserve Liabilities and Nonforfeiture Benefits". (1-1-04)T

**02. Scope.** The purpose of this rule is to recognize, permit and prescribe the use of the 2001 Commissioners Standard Ordinary (CSO) Mortality Table in accordance with Sections 41-612(4)(a)(iii) and 41-1927(9)(d)(viii)(B)(6), Idaho Code, and IDAPA 18.01.47, "Valuation of Life Insurance Policies Including the Introduction and Use of New Select Mortality Factors," Subsections 005.01 and 005.02. (1-1-04)T

**002. WRITTEN INTERPRETATIONS.**

The Department of Insurance may have written statements that pertain to the interpretation of the rules in this chapter. Any written statements shall be available for review at the Department of Insurance, 700 W. State Street, Boise, ID 83720. (1-1-04)T

**003. ADMINISTRATIVE APPEALS.**

All hearings before the Director of the Department of Insurance shall be governed by Chapter 2, Title 41, and Chapter 52, Title 67, Idaho Code. Any appeal from a decision of the Director can be taken to District Court pursuant to Chapter 52, Title 67, Idaho Code and the Idaho Rules of Civil Procedure. (1-1-04)T

**004. INCORPORATION BY REFERENCE.**

The Director of the Department of Insurance adopts by reference the 2001 CSO Mortality Table. The table is available on the internet by accessing the department's website at <http://www.doi.state.id.us/company/18.01.59.aspx>. (1-1-04)T

**005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS.**

This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The department's mailing address is: Idaho Department of Insurance, PO Box 83720, Boise, Idaho 83720-0043. The principal place of business is 700 West State Street, 3rd Floor, Boise, Idaho 83702-0043. (1-1-04)T

**006. PUBLIC RECORDS.**

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, and Title 41, Idaho Code. (1-1-04)T

**007. -- 009. (RESERVED).**

**010. DEFINITIONS.**

As used in this rule, unless the context requires otherwise, the following words shall have the following meanings: (1-1-04)T

**01. 2001 CSO Mortality Table.** That mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**DEPARTMENT OF INSURANCE**  
**Recognition of the 2001 CSO Mortality Table****Docket No. 18-0159-0301**  
**Temporary and Proposed Rulemaking**

---

Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the "Proceedings of the NAIC (2nd Quarter 2002)". Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest birthday and age-last-birthday bases of the mortality tables. (1-1-04)T

**02. 2001 CSO Mortality Table (F).** Mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table. (1-1-04)T

**03. 2001 CSO Mortality Table (M).** Mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table. (1-1-04)T

**04. Composite Mortality Tables.** Mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers. (1-1-04)T

**05. Smoker And Nonsmoker Mortality Tables.** Mortality tables with separate rates of mortality for smokers and nonsmokers. (1-1-04)T

**011. -- 099. (RESERVED).**

**100. 2001 CSO MORTALITY TABLE.**

**01. Election Of The Company.** At the election of the company for any one (1) or more specified plans of insurance and subject to the conditions stated in this rule, the 2001 CSO Mortality table may be used as the minimum standard for policies issued on or after January 1, 2004 and before the date specified in Subsection 004.02 to which Sections 41-612(4)(a)(iii) and 41-1927(9)(d)(viii)(B)(6), Idaho Code, IDAPA 18.01.47.005.01 and 005.02 are applicable. If the company elects to use the 2001 CSO Mortality Table, it shall do so for both valuation and nonforfeiture purposes. (1-1-04)T

**02. Minimum Standards For Policies.** Subject to the conditions stated in this rule, the 2001 CSO Mortality Table shall be used in determining minimum standards for policies issued on and after January 1, 2009, to which Sections 41-612(4)(a)(iii) and 41-1927(9)(d)(viii)(B)(6), Idaho Code, IDAPA 18.01.47.005.01 and 005.02 are applicable. (1-1-04)T

**101. -- 199. (RESERVED).**

**200. CONDITIONS.**

**01. Plans With Separate Rates For Smokers And Nonsmokers.** For each plan of insurance with separate rates for smokers and nonsmokers an insurer may use: (1-1-04)T

**a.** Composite mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits; (1-1-04)T

**b.** Smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by Section 41-612(10), Idaho Code, and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or (1-1-04)T

**c.** Smoker and nonsmoker mortality to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits. (1-1-04)T

**02. Plans Without Separate Rates For Smokers And Nonsmokers.** For plans of insurance without separate rates for smokers and nonsmokers the composite mortality tables shall be used. (1-1-04)T

**03. Determining Minimum Reserve Liabilities And Minimum Cash Surrender Values And**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### DEPARTMENT OF INSURANCE Recognition of the 2001 CSO Mortality Table

### Docket No. 18-0159-0301 Temporary and Proposed Rulemaking

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**Amounts Of Paid-Up Nonforfeiture Benefits.** For the purpose of determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits, the 2001 CSO Mortality Table may, at the option of the company for each plan of insurance, be used in its ultimate or select and ultimate form, subject to the restrictions of Section 006 of this rule and IDAPA 18.01.47 relative to use of the select and ultimate form. (1-1-04)T

**04. The 2001 CSO Mortality Table Is The Minimum Reserve Standard.** When the 2001 CSO Mortality Table is the minimum reserve standard for any plan for a company, the actuarial opinion in the annual statement filed with the director shall be based on an asset adequacy analysis as specified in IDAPA 18.01.77.005.08. The director may exempt a company from this requirement if it only does business in this state and in no other state. (1-1-04)T

**201. -- 299. (RESERVED).**

### **300. APPLICABILITY OF THE 2001 CSO MORTALITY TABLE TO IDAPA 18.01.47.**

**01. Use Of The 2001 CSO Mortality Table.** The 2001 CSO Mortality Table may be used in applying IDAPA 18.01.47 in the following manner, subject to the transition dates for use of the 2001 CSO Mortality Table referenced in Section 004 of this rule. Unless otherwise noted, the references in this Section are to Subsections of IDAPA 18.01.47. Nothing in this section shall be construed to expand the applicability of IDAPA 18.01.47 to include life insurance policies exempted under IDAPA 18.01.47.001.04: (1-1-04)T

**a.** IDAPA 18.01.47.001.04.a.ii.(2): The net level reserve premium is based on the ultimate mortality rates in the 2001 CSO Mortality Table. (1-1-04)T

**b.** IDAPA 18.01.47.004.02: All calculations are made using the 2001 CSO Mortality Rate, and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in Subsection 006.01.d. of this rule. The value of "qx+k-1" is the valuation mortality rate for deficiency reserves in policy year k+t, but using the unmodified select mortality rates if modified select mortality rates are used in the computation of deficiency reserves. (1-1-04)T

**c.** IDAPA 18.01.47.005.01: The 2001 CSO Mortality Table is the minimum standard for basic reserves. (1-1-04)T

**d.** IDAPA 18.01.47.005.02: The 2001 CSO Mortality Table is the minimum standard for deficiency reserves. If select mortality rates are used, they may be multiplied by X percent for durations in the first segment, subject to the conditions specified in Subsections 18.01.47.005.02.c.i. to 005.02.c.ix. In demonstrating compliance with those conditions, the demonstrations may not combine the results of tests that utilize the 1980 CSO Mortality Table with those tests that utilize the 2001 CSO Mortality Table, unless the combination is explicitly required by rule or necessary to be in compliance with relevant Actuarial Standards of Practice. (1-1-04)T

**e.** IDAPA 18.01.47.006.03: The valuation mortality table used in determining the tabular cost of insurance shall be the ultimate mortality rates in the 2001 CSO Mortality Table. (1-1-04)T

**f.** IDAPA 18.01.47.006.05.d.: The calculations specified in Subsection 006.05 shall use the ultimate mortality rates in the 2001 CSO Mortality Table. (1-1-04)T

**g.** IDAPA 18.01.47.006.06.d.: The calculations specified in Subsection 006.06 shall use the ultimate mortality rates in the 2001 CSO Mortality Table. (1-1-04)T

**h.** IDAPA 18.01.47.006.07.b.: The calculations specified in Subsection 006.07 shall use the ultimate mortality rates in the 2001 CSO Mortality Table. (1-1-04)T

**i.** IDAPA 18.01.47.007.01.a.ii.: The one (1) year valuation premium shall be calculated using the ultimate mortality rates in the 2001 CSO Mortality Table. (1-1-04)T

**301. -- 399. (RESERVED).**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

**400. GENDER-BLENDED TABLES.**

**01. Minimum Cash Surrender Values And Amounts Of Paid-Up Nonforfeiture Benefits.** For any ordinary life insurance policy delivered or issued for delivery in Idaho on and after January 1, 2004, that utilizes the same premium rates and charges for male and female lives or is issued in circumstances where applicable law does not permit distinctions on the basis of gender, a mortality table that is a blend of the 2001 CSO Mortality Table (M) and the 2001 CSO Mortality Table (F) may, at the option of the company for each plan of insurance, be substituted for the 2001 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits. No change in minimum valuation standards is implied by Subsection 400.01 of this chapter. (1-1-04)T

**02. Blended Table Choices.** The company may choose from among the blended tables developed by the American Academy of Actuaries CSO Task Force and adopted by the NAIC in December 2002. (1-1-04)T

**03. Sex-Distinct And Sex-Neutral Policy Issuance.** It shall not, in and of itself, be a violation of Title 41, Chapter 13, Idaho Code for an insurer to issue the same kind of policy of life insurance on both a sex-distinct and sex-neutral basis. (1-1-04)T

**401. -- 499. (RESERVED).**

**500. SEPARABILITY.**

If any provision of this rule or its application to any person or circumstance is for any reason held to be invalid, the remainder of the rule and the application of the provision to other persons or circumstances shall not be affected. (1-1-04)T

**501. -- 599. (RESERVED).**

**600. EFFECTIVE DATE.**

This chapter shall become effective January 1, 2004. (1-1-04)T

**601. -- 999. (RESERVED).**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

#### **24.01.01 - RULES OF THE STATE BOARD OF ARCHITECTURAL EXAMINERS**

**DOCKET NO. 24-0101-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-312, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03.10, pages 396 through 398.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Rayola Jacobsen at (208) 334-3233.

DATED this 29th day of October, 2003.

Rayola Jacobsen, Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St. Ste. 220  
Boise, ID 83702  
(208) 334-3233  
(208) 334-3945 fax

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#### **IDAPA 24, TITLE 01, CHAPTER 01**

#### **RULES OF THE STATE BOARD OF ARCHITECTURAL EXAMINERS**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 396 through 398.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

#### 24.01.01 - RULES OF THE STATE BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-0301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-312, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Adds continuing education requirements for renewal of architects licenses.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees or charges imposed or increased as a result of these rules.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the licensees have been notified of this pending requirement with no controversy.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Rayola Jacobsen, (208)334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 20th day of August 2003.

Rayola Jacobsen  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208)334-3233  
(208)334-3945 (FAX)

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0101-0301

411. -- ~~449.~~ (RESERVED).

**450. CONTINUING EDUCATION (Rule 450).**

In order to protect the public health and safety and promote the public welfare, the Board has adopted the following

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### BUREAU OF OCCUPATIONAL LICENSES Rules of the State Board of Architectural Examiners

Docket No. 24-0101-0301  
Proposed Rulemaking

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rules for continuing education. ( )

**01. Continuing Education Requirement.** Each Idaho licensed architect must successfully complete a minimum of eight (8) hours of continuing education in architectural health, safety and welfare annually for license renewal. ( )

**a.** Each licensee shall submit to the Board a license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the annual CE requirements have been met during the previous twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. ( )

**b.** A licensee shall be considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education requirements. ( )

**c.** Prior to reinstatement of a license lapsed, canceled or otherwise non-renewed for less than five (5) years, the applicant shall provide proof of attendance consisting of eight (8) hours of continuing education for each year the license was lapsed. A license lapsed, canceled or otherwise not renewed for more than five (5) years may be reinstated in accordance with Section 67-2614, Idaho Code. ( )

**d.** A licensee may carryover a maximum of eight (8) hours of continuing education to meet the next year's continuing education requirement. ( )

**e.** One (1) continuing education hour shall be equal to one (1) learning unit, as determined by the American Institute of Architects, or one (1) clock hour of education, as determined by the Board. ( )

**02. Architectural Health, Safety And Welfare Requirement.** To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and includes the following subject areas: ( )

**a.** Architectural planning and pre-design, accessibility, acoustics, building design, code of ethics, codes, acts, laws and rules governing the practice of architecture, construction administration, construction laws, construction functions, materials, methods and systems, environmental issues, energy efficiency, asbestos, lead based paint, toxic emissions, environmental analysis and environmental issues of building materials and systems, fire, building fire codes, flames spread, smoke contribution, explosives, fire safety systems, fire detection alarm standards, insurance issues, interior design, material use, functions and features, materials systems, roofing, waterproofing, wall systems, mechanical, plumbing and electrical system concepts, materials and methods, security of buildings, natural hazards related to building design, earthquakes, high wind and floods, preservation, renovation, restoration and adaptive reuse and sustainable design, site and soil analysis, site design, specification writing, structural issues, survey methods and techniques, and such other subjects as determined by the Board. ( )

**03. Approved Credit.** Continuing education courses must be in the subject of architectural health, safety and welfare and be presented by: ( )

**a.** Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or ( )

**b.** Providers approved by the National Council of Architect Registration Board (NCARB); or ( )

**c.** Providers approved by the American Institute of Architects (AIA); or ( )

**d.** Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. ( )

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**BUREAU OF OCCUPATIONAL LICENSES**  
**Rules of the State Board of Architectural Examiners**

**Docket No. 24-0101-0301**  
**Proposed Rulemaking**

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**04. Verification Of Attendance.** It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee for a period of three (3) years and provided to the Board upon request of the Board or its agent. ( )

**05. Failure To Fulfill The Continuing Education Requirements.** The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. ( )

**06. Exemptions.** A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following criteria: ( )

**a.** Has served honorably on active duty in the military service (exceeding ninety (90) consecutive days). ( )

**b.** Is a resident of another jurisdiction recognized by the Board having a continuing professional education requirement for registration as an architect and has complied with all requirements of that state or district for practice therein. ( )

**c.** Is a government employee working as an architect and assigned to duty outside the United States. ( )

**d.** Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. ( )

**451. -- 499. (RESERVED).**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

#### **24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY**

**DOCKET NO. 24-0401-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-821, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 399 through 402.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Rayola Jacobsen at (208) 334-3233.

DATED this 29th day of October, 2003.

Rayola Jacobsen, Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St. Ste. 220  
Boise, ID 83702  
(208) 334-3233  
(208) 334-3945 fax

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### **IDAPA 24, TITLE 04, CHAPTER 01**

#### **RULES OF THE IDAHO BOARD OF COSMETOLOGY**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 399 through 402.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**



## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

#### **24.04.01 - RULES OF THE IDAHO BOARD OF COSMETOLOGY**

##### **DOCKET NO. 24-0401-0301**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-821, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Deletes part of the rule requiring that mannequin hands for nail technology exam may not have artificial nails and corrects Idaho Code references.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees or charges imposed or increased as a result of these rules.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there were no controversial changes made.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Rayola Jacobsen, (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Rayola Jacobsen  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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#### **THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0401-0301**

#### **491. MODELS FOR THE NAIL TECHNOLOGY EXAMINATION (Rule 491).**

**01. Mannequin Hands For Manicure.** Mannequin hands are mandatory for all portions of the nail

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### BUREAU OF OCCUPATIONAL LICENSES Rules of the Board of Cosmetology

Docket No. 24-0401-0301  
Proposed Rulemaking

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technology examination and must be treated in all respects, the same as a live model. ~~They may not have artificial nails.~~ (3-8-02)(\_\_\_\_)

### (BREAK IN CONTINUITY OF SECTIONS)

**550. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY (Rule 550).**  
Section 54-802 ~~(n)~~8 provides for the teaching of electrology in cosmetology schools. (7-1-99)(\_\_\_\_)

**01. Board Approval.** The board may approve a school to teach electrology who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach electrology. (7-1-99)

**02. Minimum Square Footage.** Schools provide a minimum of three hundred (300) square feet of designated floor space per six (6) students. (7-1-97)

**03. Required Equipment.** Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students. (7-1-97)

- a. Work stations equal to seventy-five percent (75%) of total enrollment. (7-1-97)
- Blend. b. Two (2) brands of machines (one (1) with three (3) method capability) Galvanic, Thermolysis, and (7-1-97)
- c. Two (2) treatment tables and adjustable technician chairs. (7-1-97)
- d. Two (2) swing arm lamps with magnifying lens. (7-1-97)
- e. Two (2) magnifying glasses. (7-1-97)
- f. Tweezers. (7-1-97)
- g. One (1) basin with approved water source. (7-1-97)
- h. Necessary sanitation equipment for implements. (7-1-97)
- i. Closed storage cabinet. (7-1-97)

**04. Kit.** Each student to be issued a basic kit containing: two (2) tweezers, disposable probes, eye shields, disposable gloves, before treatment solution, after treatment lotion, hair pins or clippies, one (1) sharps container. (7-1-99)

**05. Electrologist Instructor/Student Ratio.** Schools have at least one (1) licensed electrologist instructor for every six (6) students or portion thereof, being trained therein. (7-1-99)

**06. Records Required.** Records required of cosmetology schools approved to teach electrology shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

**07. Record Of Instruction.** A record of all operations completed by each student shall be maintained and include the following: (3-30-01)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### BUREAU OF OCCUPATIONAL LICENSES Rules of the Board of Cosmetology

Docket No. 24-0401-0301  
Proposed Rulemaking

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- a. Permanent Removal of Hair (Electrology). (7-1-97)
- i. Bacteriology, sanitation and sterilization, safety precautions, anatomy, and physiology. (3-30-01)
- ii. Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment. (3-30-01)
- iii. Electrolysis which shall include the use and study of galvanic current. (3-30-01)
- iv. Thermolysis which shall include the use and study of high frequency current automatic and manual. (3-30-01)
- v. A combination of high frequency and galvanic currents. (3-30-01)
- vi. The study and cause of hypertrichosis. (3-30-01)
- b. Students may not render any clinical services to patrons until completing at least eighty (80) hours of instruction in electrology. (7-1-99)

**551. -- 559. (RESERVED).**

#### **560. RULES FOR COSMETOLOGY SCHOOLS TEACHING ESTHETICS (Rule 560).**

Section 54-802(~~p~~)8, Idaho Code, provides for the teaching of esthetics in cosmetology schools. (~~7-1-97~~)(      )

**01. Board Approval.** The board may approve a school to teach esthetics who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach esthetics. (7-1-97)

**02. Records Required.** Records required of schools teaching esthetics shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

a. Students may not render any clinical services to patrons until completing at least sixty (60) hours of instruction in esthetics. (7-1-97)

b. The recorded operations completed by each student shall be maintained and include the following: (3-30-01)

- i. Massage and Manipulation application of lotions, creams, etc. (3-30-01)
- ii. Cosmetics. (3-30-01)
- iii. Machine Application: use of mechanical or electrical equipment. (3-30-01)
- iv. Bacteriology, Sanitation and sterilization, safety precautions, anatomy and physiology. (3-30-01)
- v. Eyebrow arch and hair removal. (3-30-01)

**561. -- 569. (RESERVED).**

#### **570. RULES FOR COSMETOLOGY SCHOOLS TEACHING NAIL TECHNOLOGY (Rule 570).**

Section 54-802(~~d~~)8, Idaho Code, provides for the teaching of nail technology in cosmetology schools. (~~7-1-97~~)(      )

**01. Board Approval.** The board may approve a school to teach nail technology who makes application on forms provided by the board and who meets all the requirements set forth in the cosmetology law and these rules. Approval of curriculum must be submitted on a separate application. Approval may be suspended or terminated by

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**BUREAU OF OCCUPATIONAL LICENSES**  
**Rules of the Board of Cosmetology****Docket No. 24-0401-0301**  
**Proposed Rulemaking**

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the board for the school's failure to meet any one or more of the minimum requirements set forth in the cosmetology law and rules to teach nail technology. (7-1-97)

**02. Records Required.** (7-1-97)

**a.** Records required of schools teaching nail technology shall be maintained in accordance with the records required for schools of cosmetology. (3-30-01)

**b.** Students may not render any clinical services to patrons until the student has completed at least forty (40) hours of instruction. All work done on patrons must be completed by students and supervised by instructors. (7-1-97)

**03. Record Of Training.** A record of operations completed by each student shall be maintained of the following: (3-30-01)

**a.** Form nails; (3-30-01)

**b.** Finished tips; (3-30-01)

**c.** Wraps and mends; and (3-30-01)

**d.** Basic manicures and pedicures. (3-30-01)

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

#### **24.07.01 - RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS**

**DOCKET NO. 24-0701-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-3003, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

Changes were made to proposed text due to public comment in 004 and 425. ASLA Code of Professional Ethics was replaced by CLARB Model Rules of Professional Conduct as approved September, 2002.

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 407 through 411.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Rayola Jacobsen at (208) 334-3233.

DATED this 29th day of October, 2003.

Rayola Jacobsen, Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St. Ste. 220, Boise, ID 83702  
(208) 334-3233 / (208) 334-3945 fax

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#### **IDAPA 24, TITLE 07, CHAPTER 01**

#### **RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS**

**There are substantive changes from the proposed rule text.**

**Only those sections that have changed from the original proposed text are printed in this Bulletin following this notice.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 403 through 406.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**BUREAU OF OCCUPATIONAL LICENSES**  
**Idaho State Board of Landscape Architects**

**Docket No. 24-0701-0301**  
**Pending Rule**

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*Language That Has Been Deleted From The Original Proposed Rule  
Has Been Removed And New Language Is Shown In Italics*

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THE FOLLOWING IS THE AMENDED TEXT OF DOCKET NO. 24-0701-0301

### *SECTION 004 (Entire Section)*

#### **004. INCORPORATION BY REFERENCE (Rule 4).**

The document titled the *Council of Landscape Architectural Registration Boards (CLARB) Model Rules of Professional Conduct* as amended September 2002, referenced in Subsection 425, is herein incorporated by reference. ( )

### *SECTION 425 (Entire Section)*

#### **425. RULES OF PROFESSIONAL RESPONSIBILITY (Rule 425).**

**01. Rules of Professional Responsibility.** The *CLARB model rules of professional conduct* as amended September 2002 are hereby adopted as the Rules of Professional Responsibility for all Idaho licensed landscape architects. ( )

**02. Violation Of The Rules of Professional Responsibility.** The Board will take action against a licensee under Section 54-3004(5), Idaho Code, who is found in violation of the Rules of Professional Responsibility. ( )

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

#### **24.07.01 - RULES OF THE BOARD OF LANDSCAPE ARCHITECTS**

**DOCKET NO. 24-0701-03013**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-3003, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rule making will be scheduled in requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rule making:

Adds required sections; amends education section; amends practical experience section; clarifies application process; makes provision for landscape architect-in-training; clarifies examination section; replaces certificate fee with license fee; includes rules of professional responsibility; and amends meeting dates.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees or charges imposed or increased as a result of this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the changes made are not controversial.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Rayola Jacobsen at (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August, 2003.

Rayola Jacobsen.  
Owhyee Plaza  
1109 Main Street, Suite 220  
Boise, ID 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-0701-0301**

~~002- (RESERVED)~~

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### BUREAU OF OCCUPATIONAL LICENSES Rules of the Board of Landscape Architects

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Docket No. 24-0701-0301  
Proposed Rulemaking

**0032. WRITTEN INTERPRETATIONS (Rule 32).**

The board may have written statements which pertain to the interpretation of the rules of this chapter. Such interpretations, if any, are available for public inspection and copying at cost in the main office of the Bureau of Occupational Licenses. (7-1-93)( )

**003. ADMINISTRATIVE APPEALS (Rule 3).**

Administrative appeals shall be governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. ( )

**004. INCORPORATION BY REFERENCE (Rule 4).**

The document titled the American Society of Landscape Architects (ASLA) Code of Professional Ethics, as amended September 1999, referenced in Subsection 425, is herein incorporated by reference. ( )

**005. ADDRESS OF IDAHO BOARD OF LANDSCAPE ARCHITECTS (Rule 5).**

The office of the Board of Landscape Architects is located within the Bureau of Occupational Licenses, Owyhee Plaza, 1109 Main Street, Suite 220, Boise, Idaho 83702-5642. The phone number of the Board is (208) 334-3233. The Board's FAX number is (208) 334-3945. The Board's e-mail address is lar@ibol.state.id.us. The Board's official web site is at www2.state.id.us/ibol/lar. ( )

**006. PUBLIC RECORDS (Rule 6).**

The records associated with the Board of Landscape Architects are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. ( )

**0047. -- 009. (RESERVED).**

**010. DEFINITIONS (Rule 10).**

**01. Board.** The Idaho State Board of Landscape Architects, as prescribed in Section 54-3001(c), Idaho Code. (7-1-93)

**02. Bureau.** The Bureau of Occupational Licenses as prescribed in Sections 54-3003 and 67-2602, Idaho Code. ( )

### (BREAK IN CONTINUITY OF SECTIONS)

**101. APPROVED EDUCATION ~~REQUIREMENTS~~ (Rule 101).**

~~The education requirements will be the~~ An approved colleges or schools of landscape architecture shall have a landscape architecture program accredited by the American Society of Landscape Architects, ~~University of Idaho, and other schools or colleges~~ or shall substantially meet the accrediting standards of the ASLA as may be approved determined by the Board. (7-1-93)( )

**102. PRACTICAL EXPERIENCE IN LIEU OF EDUCATION (Rule 102).**

~~Upon examination of the applicant by the Board, the Board will have the option to require additional evidence of education and/or actual practical experience. This may be in the form of plans, photographs, etc. Work submitted to the Board shall demonstrate that the applicant is qualified under the definition of a Landscape Architect in the Act for Registration, Licensing and Regulation of Landscape Architects.~~ An applicant shall document at least eight (8) years of actual practical experience in landscape architecture in lieu of graduation from an approved college or school of landscape architecture. Such experience shall establish the applicant's education in those subjects and areas contained in the curriculum of an approved college or school of landscape architecture. No less than fifty percent (50%) of such practical experience shall be under the supervision of a licensed landscape architect. (7-1-93)( )

**103. -- 199. (RESERVED).**

**200. APPLICATION ~~FILING DATE~~ (Rule 200).**



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### BUREAU OF OCCUPATIONAL LICENSES Rules of the Board of Landscape Architects

Docket No. 24-0701-0301  
Proposed Rulemaking

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~~Applications for examination must be filed with the Bureau of Occupational Licenses by April first (1st) for the June examination, or October first (1st) for the December examination. Each applicant for licensure shall submit a complete application together with the required fees to the Board. An application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. An application shall not be reviewed by the Board until all required information is furnished and the required fees paid.~~ (11-25-94)( )

#### 201. APPLICATION FORM (Rule 201).

~~Each applicant is required to complete and return an application form whether applying for reciprocity or examination.~~ (7-1-93)

**01. Reference Requirements.** Applicants are required to furnish the Board four (4) references (two (2) must be currently licensed Idaho Landscape Architects). All references must be from competent individuals who are well acquainted with the applicant's character and professional ability. (7-1-93)( )

**02. Materials Submitted To Board.** All required applications, statements, fees and other ~~matters required to be furnished or paid by these rules~~ documentation must be submitted to the Board in care of the Bureau of Occupational Licenses, and shall include: (7-1-93)( )

- a.** A passport photograph taken within thirty (30) days of the date of application; ( )
- b.** Documentation of being at least eighteen (18) years of age at the time of application; and ( )
- c.** Either certification of graduation from an approved college or school of landscape architecture; or ( )
- d.** Documentation of all actual landscape architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. ( )

**03. Deadlines.** To be considered by the Board, completed applications must be received by the Bureau at least thirty (30) days prior to the first day of the month in which the Board will meet. Applications for examination must be filed with the Bureau of Occupational Licenses by April 1 for the June examination, or October 1 for the December examination. ( )

202. -- 2949. (RESERVED).

#### 250. LANDSCAPE ARCHITECT-IN-TRAINING (Rule 250).

An individual may represent themselves as a landscape architect-in-training only under the following conditions: ( )

**01. Qualifications.** Any person who is at least eighteen (18) years of age and has graduated from an approved college or school of landscape architecture, or who documents at least eight (8) years of actual practical experience in landscape architecture approved by the board. ( )

**02. Supervision.** Each landscape architect-in-training shall be employed by and work under the direct supervision of an Idaho licensed landscape architect. ( )

**03. Prohibitions.** A landscape architect-in-training shall not sign or seal any plan, specification, or other document, and shall not engage in the practice of landscape architecture except under the direct supervision of an Idaho licensed landscape architect. ( )

**04. Registration.** Each landscape architect-in-training shall register with the Board on forms provided by the Bureau of Occupational Licenses that shall include the names and addresses of their employer, and supervisor. ( )

251. -- 299. (RESERVED).

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### BUREAU OF OCCUPATIONAL LICENSES Rules of the Board of Landscape Architects

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Docket No. 24-0701-0301  
Proposed Rulemaking

#### 300. EXAMINATIONS (Rule 300).

The examination shall be that published by the Council of Landscape Architectural Registration Boards. Examinations will be in the months of June and December. ~~(3-18-99)~~(\_\_\_\_)

**01. Minimum Passing Score.** The minimum passing score for each section of the examination shall be seventy-five percent (75%). (7-1-93)

**02. Failing A Section Of Exam.** An applicant failing any section of the examination will be required to retake only that section failed. (7-1-93)

**03. Required Forms.** ~~Application and reference forms are required for original applications.~~ Each applicant approved for examination must provide notice of intent to sit for examination on a form approved by the board. Notice of intent to sit for examination must be filed with the Bureau of Occupational Licenses by April 1 for the June examination, or October 1 for the December examination. ~~(7-1-93)~~(\_\_\_\_)

**04. Reexamination.** Applicants applying for reexamination must file an application of intent to sit for examination by April 1 for the June examination, or October 1 for the December examination. The fees for reexamination shall be the same as those for examination and must accompany the application of intent to sit. (\_\_\_\_)

#### 301. ~~RETAKES (Rule 301)~~ (RESERVED).

~~Applicants must file a statement of intent to appear for retake by April 1 for the June examination, or October 1 for the December examination. The fee for retake must accompany statement of intent.~~ (11-25-94)

#### 302. ~~RECIPROCITY/LIMITED EXAMINATION ENDORSEMENT~~ (Rule 302).

The board may ~~certify for~~ approve the registration and licensure of an applicant who ~~has achieved~~ holds a current ~~licensing~~ license in another state ~~by~~ and who has successfully ~~passing~~ passed the Landscape Architect Registration Examination as required by Section 300 or holds a current Council of Landscape Architectural Registration Boards certificate. ~~(3-18-99)~~(\_\_\_\_)

#### 303. -- 399. (RESERVED).

#### 400. FEES (Rule 400).

Fees are not refundable, therefore, applications should not be filed unless the applicant can meet all requirements. (7-1-93)

**01. Application Fee.** Application Fee (Original-Reapplication-~~Reciprocity~~Endorsement) One hundred dollars (\$100). ~~(12-27-93)~~(\_\_\_\_)

**02. Examination Fees.** Examination fees will be as established by the council of landscape architectural registration boards. ~~(7-24-94)~~(\_\_\_\_)

**03. Original ~~Certificate~~ License And Annual License Fee.** Original ~~certificate~~ license and annual license fee - One hundred dollars (\$100). ~~(12-27-93)~~(\_\_\_\_)

**04. Reinstatement Fee.** Reinstatement fee - Twenty-five dollars (\$25). (7-1-93)

**05. ~~Application Fee.~~** ~~All applicants for licensure must submit a one hundred dollar (\$100) application fee.~~ ~~(12-27-93)~~

**06. ~~Submission Of Original Certificate Fee.~~** ~~The original certificate fee one hundred dollars (\$100) must be submitted upon acceptance by the Board for licensure.~~ ~~(7-1-93)~~

**075. Processing Fee.** Applicants for ~~licensing by~~ examination must submit a twenty-five dollar (\$25) processing fee, together with the examination fees and the application fee. ~~(12-27-93)~~(\_\_\_\_)

#### 401. -- ~~449~~24. (RESERVED).

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**BUREAU OF OCCUPATIONAL LICENSES**  
**Rules of the Board of Landscape Architects**

**Docket No. 24-0701-0301**  
**Proposed Rulemaking**

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**425. RULES OF PROFESSIONAL RESPONSIBILITY (Rule 425).**

**01. Rules Of Professional Responsibility.** The ASLA Code of Professional Ethics as amended September 1999 are hereby adopted as the Rules of Professional Responsibility for all Idaho licensed landscape architects. ( )

**02. Violation Of The Rules of Professional Responsibility.** The Board will take action against a licensee under Section 54-3004(5), Idaho Code, who is found in violation of the Rules of Professional Responsibility. ( )

**426. -- 449. (RESERVED).**

**(BREAK IN CONTINUITY OF SECTIONS)**

**500. MEETINGS (Rule 500).**

Board meetings will be held ~~on the third Friday of the months of January (optional), in April, July and October of~~ each year and at such other times as the Board deems necessary. (7-1-93)( )

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

#### **24.08.02 - RULES OF THE IDAHO STATE BOARD OF MORTICIANS GOVERNING CREMATORIES**

##### **DOCKET NO. 24-0802-0301 - (CHAPTER REPEAL)**

##### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-1107, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

This chapter is being repealed in its entirety. The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003 Idaho Administrative Bulletin, Volume 03-10, page 418.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Rayola Jacobson at (208) 334-3233.

DATED this 4th day of November, 2003.

Rayola Jacobson, Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St., Ste. 220  
Boise, ID 83702  
(208) 334-3233  
(208) 334-3945 fax

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#### **IDAPA 24, TITLE 08, CHAPTER 02**

#### **RULES OF THE IDAHO STATE BOARD OF MORTICIANS GOVERNING CREMATORIES**

**This chapter is being repealed in its entirety.**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 2, 2003, page 418.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

#### **24.08.02 - RULES OF THE IDAHO STATE BOARD OF MORTICIANS GOVERNING CREMATORIES**

##### **DOCKET NO. 24-0802-0301 (CHAPTER REPEAL)**

##### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 54-1107, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Effective July 1, 2003, Title 27, Chapter 3, Idaho Code, Crematory law was repealed and included in Title 54, Chapter 11, Idaho Code. Therefore, this chapter of rules is being repealed.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: There are no fees or charges imposed or increased as a result of these rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Rayola Jacobsen, (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 4th day of September, 2003.

Rayola Jacobsen  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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**IDAPA 24.08.02 IS BEING REPEALED IN ITS ENTIRETY.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES**

#### **24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD**

**DOCKET NO. 24-1801-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 54-4106, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The complete text of the proposed rule was published in the October 1, 2003, Idaho Administrative Bulletin, Volume 03-10, pages 441 through 443.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Rayola Jacobsen at (208) 334-3233.

DATED this 29th day of October, 2003.

Rayola Jacobsen, Bureau Chief  
Bureau of Occupational Licenses  
1109 Main St. Ste. 220  
Boise, ID 83702  
(208) 334-3233  
(208) 334-3945 fax

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### **IDAPA 24, TITLE 18, CHAPTER 01**

#### **RULES OF THE REAL ESTATE APPRAISER BOARD**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-10, October 1, 2003, pages 441 through 443.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

#### 24.18.01 - RULES OF THE REAL ESTATE APPRAISER BOARD

##### DOCKET NO. 24-1801-0301

#### NOTICE OF RULEMAKING - PROPOSED RULE

**AUTHORITY:** In compliance with Sections 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 54-4106, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Updates incorporation by reference rule to reflect current publication date; deletes certificate and history record fees; clarifies continuing education requirements.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

There are no fees or charges imposed or increased as a result of these rules.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because there were no controversial changes made.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Rayola Jacobsen, (208) 334-3233.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2003.

DATED this 19th day of August 2003.

Rayola Jacobsen  
Owyhee Plaza  
1109 Main Street, Suite 220  
Boise, Idaho 83702  
(208) 334-3233  
(208) 334-3945 (FAX)

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#### THE FOLLOWING IS THE TEXT OF DOCKET NO. 24-1801-0301

##### **004. INCORPORATION BY REFERENCE (Rule 4).**

The document titled "Uniform Standards of Professional Appraisal Practice (USPAP)", 2002<sup>3</sup> Edition published by the Appraisal Foundation and effective January 1, 2002<sup>3</sup> as referenced in Subsection 700, is herein incorporated by reference and is available for review at the Board's office and may be purchased from the Appraisal Foundation.

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

~~(5-3-03)~~(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **200. FEES (Rule 200).**

Fees are established in accord with Section 54-4113, Idaho Code as follows: (7-1-93)

**01. Application.** Application fee for Certification/Registration/License - two hundred fifty dollars (\$250). (3-13-02)

**02. Original Certification/License.** Original Certification/License - one hundred twenty-five dollars (\$125\*). (3-30-01)

**03. Certification/License Renewal.** Certification/License renewal - two hundred fifty dollars (\$250\*). (3-30-01)

**04. Reinstatement.** Reinstatement fees are as provided in Section 67-2614, Idaho Code - twenty-five dollars (\$25). (7-1-93)

~~**05. Duplicate Certificate/License.** Duplicate Certificate/License - twenty-five dollars (\$25). (7-1-93)~~

~~**06. History Record.** History record - twenty-five dollars (\$25). (7-1-93)~~

~~**07. Application For Reciprocity.** Application for reciprocity - two hundred fifty dollars (\$250\*). (3-30-01)~~

~~**08. Original Certification/License Via Reciprocity.** Original Certification/License via reciprocity - one hundred twenty-five dollars (\$125\*). (3-30-01)~~

~~**09. Temporary Permit.** Temporary permit - one hundred dollars (\$100). (7-1-93)~~

~~**10. Trainee Registration Fee.** Trainee registration fee - fifty dollars (\$50). (3-13-02)~~

~~**11. Examination And Reexamination Fees.** Examination and Reexamination fees will be calculated based on the actual cost of the examination. Successful applicants will be notified of the fees at the time they are scheduled for examination. (7-1-97)~~

~~**12. Fees Are Non-Refundable.** Fees are non-refundable. (7-1-93)~~

~~**13. Fees Followed By "\*" Means.** Proposed fees for these categories marked with an asterisk include an estimated twenty five-dollars (\$25) to be submitted by the state to federal government. Title XI, Section 1109 requires each state to submit a roster listing of state certified/licensed appraisers to the Appraiser Subcommittee "no less than annually". The state is also required to collect from such individuals who perform appraisals in federally related transactions an annual registry fee of "not more than twenty five dollars (\$25)", such fees to be transmitted by the state to the federal government on an annual basis. (7-1-93)~~

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **401. CONTINUING EDUCATION (Rule 401).**

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

**01. Purpose Of Continuing Education.** The purpose of continuing education is to ensure that the



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### BUREAU OF OCCUPATIONAL LICENSES Rules of the Real Estate Appraiser Board

Docket No. 24-1801-0301  
Proposed Rulemaking

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appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

**02. Hours Required.** The equivalent of fifteen (15) classroom hours of instruction in courses or seminars for during each year during the three (3) years during the period preceding the renewal prior to renewal is required. ~~(For example, a three (3) year certification term would require forty five (45) hours. These hours may be obtained any time during the three (3) year term.~~ (7-1-97)( )

a. A classroom hour is defined as fifty (50) minutes out of each sixty (60) minute segment. (7-1-93)

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the appraisal members of The Appraisal Foundation and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. (3-13-02)

**d.** Continuing education hours accumulated during the twelve (12) months immediately preceding the license expiration date that are in excess of the required hours per year may be applied toward meeting the continuing education requirement for the next successive license renewals. No more than thirty (30) continuing education hours in excess of the required fifteen (15) hours shall be carried forward. Excess hours must be used toward meeting the continuing education requirements for the next immediately successive renewal periods only. ( )

**de.** Once every ~~five~~ two (2) years an Idaho State Certified/Licensed Real Estate Appraiser will be required to attend ~~fifteen an approved seven (157) hours of a~~ USPAP update course ~~and receive a passing grade on a course examination~~ or the equivalent. An approved fifteen (15) hour USPAP course shall be considered as an equivalent course, however, no excess USPAP hours may be carried forward to meet the two (2) year USPAP update requirement. (3-13-02)( )

**03. Credit For Appraisal Educational Processes And Programs.** Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. (7-1-97)

**04. Requirement When A Certificate/License Is Cancelled.** For each year (less than five (5)) in which a license is lapsed, ~~cancelled~~ canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be obtained prior to reinstatement. In addition, for each two (2) years (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, a seven (7) hour USPAP update course must be obtained prior to reinstatement. (3-18-99)( )

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 33 - IDAHO REAL ESTATE COMMISSION**

#### **33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION**

**DOCKET NO. 33-0101-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the Real Estate Commission and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule will become final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by the concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, notice is hereby given that the Real Estate Commission has adopted a pending rule. The action is authorized pursuant to Section 54-2007, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rules and a statement of any change between the text of the proposed rule and the text of the pending rule: The Commission has decided to permit licensees to "self-certify" their Continuing Education ("CE") compliance when renewing or reactivating a license. To be effective, of course, the certification is subject to verification. The Commission believes that allowing the licensee to self-certify his completion of the CE requirements - rather than submit a hefty packet of documents with the application - is a benefit to the licensee as well as the Commission. The Rules set forth the type of CE documentation the licensee will need to keep, and authorize the Commission to request the documentation in order to verify the certificate of compliance. The rules also provide that the license will be inactivated if he fails to comply with the Commission's request for verification, and restate for the licensee the consequences of submitting a false certificate (which already exist by statute). Finally, the rules list the "approved CE topics," which had previously been listed only in Policy. The standards set forth in these rules are deemed necessary by the Commission to allow it to continue this much-desired self-certification program.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the January 1, 2003 Idaho Administrative Bulletin, Volume 03-1, pages 199 through 202.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning the pending rule, contact Donna Jones, (208) 334-3285 ext. 232.

Dated this 16th day of October, 2003.

Donna M. Jones, Executive Director  
Agency: Idaho Real Estate Commission  
Physical Address: 633 N. Fourth St., Boise, ID 83702  
PO Box 83720, Boise, ID 83720  
(208) 334-3285; (208) 334-2050 (fax)

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### **IDAPA 33, TITLE 01, CHAPTER 01**

#### **RULES OF THE IDAHO REAL ESTATE COMMISSION**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-1, January 1, 2003, pages 199 through 202.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 33 - REAL ESTATE COMMISSION

#### 33.01.01 - RULES OF THE IDAHO REAL ESTATE COMMISSION

DOCKET NO. 33-0101-0301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is November 13, 2002.

**AUTHORITY:** In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2007, Idaho Code.

**PUBLIC HEARING:** Public hearing concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 31, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The Commission has decided to permit licensees to "self-certify" their CE compliance when renewing or reactivating a license. To be effective, of course, the certification is subject to verification. The Commission believes that allowing the licensee to self-certify his completion of the CE requirements - rather than submit a hefty packet of documents with the application - is a benefit to the licensee as well as the Commission.

The Rules set forth the type of CE documentation the licensee will need to keep, and authorize the Commission to request the documentation in order to verify the certificate of compliance. The rules also provide that the license will be inactivated if he fails to comply with the Commission's request for verification, and restate for the licensee the consequences of submitting a false certificate (which already exist by statute). Finally, the rules list the "approved CE topics," which had previously only been listed in Policy. The standards set forth in these rules are deemed necessary by the Commission to allow it to continue this much-desired self-certification program.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The rule confers a benefit in that it sets forth standards allowing the licensee to "self-certify" he has met the Continuing Education requirements necessary to renew his license. Without self-certification, the licensee will be required to submit documentation with his application for license renewal or re-activation.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:  
No new fees involved.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because of the need for temporary rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Donna Jones, (208) 334-3285 ext. 232.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before February 7, 2003.

Dated this 7th day of November, 2002.

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**REAL ESTATE COMMISSION**  
**Rules of the Idaho Real Estate Commission**

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**Docket No. 33-0101-0301**  
**Temporary and Proposed Rulemaking**

Donna M. Jones, Executive Director  
Idaho Real Estate Commission  
633 N. Fourth St., Boise, ID 83702  
PO Box 83720, Boise, ID 83720  
(208) 334-3285; (208) 334-2050 (fax)

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**THE FOLLOWING IS THE TEXT OF DOCKET NO. 33-0101-0301**

305. -- ~~9399~~. (RESERVED).

**RULES 400 THROUGH 499 - CONTINUING EDUCATION**

**400. CONTINUING EDUCATION A PREREQUISITE FOR RENEWAL OF ACTIVE LICENSE.**

Every licensee applying to renew a license on active status, or applying to change from inactive to active license status, shall first meet the continuing education requirements set forth in Sections 54-2018 and 54-2023, Idaho Code.  
(11-13-02)T

**401. OBTAINING CONTINUING EDUCATION CREDIT.**

In addition to those courses that have been certified or preapproved for continuing education by the Commission, and as provided in Section 54-2023(5)(e), Idaho Code, a licensee may obtain continuing education credit for the successful completion of any course meeting either of the following descriptions, without the preapproval or certification of the Commission:  
(11-13-02)T

**01. Professional Designation Courses.** Courses developed by national professional organizations and that are required in order to earn professional designations from a national organization in specialized areas of licensed real estate practice; or  
(11-13-02)T

**02. Courses Accredited By Other Professions.** Courses approved by and offered in satisfaction of another professional or occupational licensing authority's education requirements, if within the approved topics listed in Rule 402.  
(11-13-02)T

**402. APPROVED TOPICS FOR CONTINUING EDUCATION.**

**01. Topics Approved By The Commission.** Approved topic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, include the following:  
(11-13-02)T

- a.** Real estate ethics;  
(11-13-02)T
- b.** Legislative issues that influence real estate practice;  
(11-13-02)T
- c.** Real estate law; contract law; agency; real estate licensing law and administrative rules;  
(11-13-02)T
- d.** Fair housing; affirmative marketing; Americans with Disabilities Act;  
(11-13-02)T
- e.** Real estate financing, including mortgages and other financing techniques;  
(11-13-02)T
- f.** Real estate market measurement and evaluation;  
(11-13-02)T

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

- g.** Land use planning and zoning; land development; construction; energy conservation in building; (11-13-02)T
- h.** Real estate investment; (11-13-02)T
- i.** Accounting and taxation as applied to real property; (11-13-02)T
- j.** Real estate appraising; (11-13-02)T
- k.** Real estate marketing procedures related specifically to actual real estate knowledge; (11-13-02)T
- l.** Real estate inspections; (11-13-02)T
- m.** Property management; (11-13-02)T
- n.** Timeshares, condominiums and cooperatives; (11-13-02)T
- o.** Real estate environmental issues and hazards, including lead-based paint, underground storage tanks, radon, etc., and how they affect the practice of real estate; (11-13-02)T
- p.** Water rights; (11-13-02)T
- q.** Brokerage office management and supervision; and (11-13-02)T
- r.** Use of calculators or computers as applied to the practice of real estate. (11-13-02)T
- 02.** **Other Topics.** Upon written request, the Commission may also approve any other topic that directly relates to real estate brokerage practice and that directly contributes to the accomplishment of the primary purpose of continuing education, which is to help assure that licensees possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. The knowledge or skills taught in an elective course must enable licensees to better serve real estate consumers. (11-13-02)T
- 03.** **Topics Not Eligible For Continuing Education Credits.** The following activities shall not be eligible for approval for compliance with the continuing education requirement; (11-13-02)T
- a.** Those which are specifically exam preparation in nature; (11-13-02)T
- b.** Those which deal with office or business skills, such as: (11-13-02)T
- i.** Typing; (11-13-02)T
- ii.** Speed reading; (11-13-02)T
- iii.** Memory improvement; (11-13-02)T
- iv.** Body language; (11-13-02)T
- v.** Motivation and similar activities; (11-13-02)T
- c.** Those which are held in conjunction with a brokerage firm's sales promotion or sales meetings; or (11-13-02)T
- d.** Those which are held by trade organizations for licensee's orientation. (11-13-02)T
- 403.** **CERTIFICATION OF COMPLIANCE AND SATISFACTORY PROOF.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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### **REAL ESTATE COMMISSION** **Rules of the Idaho Real Estate Commission**

**Docket No. 33-0101-0301**  
**Temporary and Proposed Rulemaking**

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As required by Section 54-2018, Idaho Code, a licensee applying to renew an active license, or to change from inactive to active status, shall certify having met the continuing education requirements set forth in Section 54-2023, Idaho Code, in the form and manner approved by the commission. The licensee shall keep satisfactory proof of having completed the requirement, and upon request, shall provide satisfactory proof to the Commission of having completed the requirement. (11-13-02)T

**01. Commission Request For Proof Of Compliance.** The commission may request satisfactory proof of continuing education compliance from any licensee who has submitted a certification of continuing education compliance. The request shall state the time within which the proof must be received in the Commission office, which time shall not be less than ten (10) business days. (11-13-02)T

**02. Satisfactory Proof Of Compliance.** Upon request from the Commission, the licensee shall submit satisfactory proof of having met the continuing education requirement. Satisfactory proof shall include, for each course listed in the certificate of compliance, the following: (11-13-02)T

**a.** Satisfactory evidence of having successfully completed the course, which shall consist of: (11-13-02)T

**i.** A transcript of the course taken; (11-13-02)T

**ii.** A letter from the provider verifying successful completion of the course; or (11-13-02)T

**iii.** A course completion certificate; and (11-13-02)T

**iv.** Shall clearly identify the licensee, the title of the course or challenge exam, the course provider, the number of classroom hours, and the challenge exam or course completion date; and (11-13-02)T

**b.** Satisfactory evidence that the course listed is approved for continuing education credit, as provided by section 54-2023, Idaho Code, which shall be established by the course certification approval number. The Commission may, in its sole discretion, accept alternative documentation establishing that the course is approved for credit. (11-13-02)T

**404. FAILURE TO SUBMIT SATISFACTORY PROOF - INACTIVATION OF LICENSE.**  
Failure of a licensee to comply with a Commission request for satisfactory proof of continuing education compliance shall be deemed an insufficient application for licensure under Section 67-5254, Idaho Code, and shall result in the immediate inactivation of the license. The inactivation of the license shall be deemed a partial expiration of the license. (11-13-02)T

**405. AUTHORITY TO INVESTIGATE AND DISCIPLINE NOT LIMITED.**  
Nothing in these rules shall limit the Commission's authority granted in Sections 54-2058 through 54-2065, Idaho Code, to investigate and discipline a licensee for misconduct. (11-13-02)T

**406. FALSIFICATION OF CERTIFICATES OR DOCUMENTATION.**  
Any licensee who, acting alone or in concert with others, wilfully or knowingly causes or allows a Certification of Continuing Education Compliance, or any written documentation verifying a Certification of Continuing Education Compliance, to be submitted to the Commission which is false, fraudulent, or misleading, shall be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein shall entitle such licensee to notice and hearing on the automatic inactivation of license provided for in these rules. (11-13-02)T

**407. -- 999. (RESERVED).**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 48 - DEPARTMENT OF COMMERCE**

#### **48.01.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**DOCKET NO. 48-0103-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule.

To revise the existing rules to increase the limit at which grantees can shift ITC dollars (\$2,500) between line items during a grant cycle. To raise the formal bid requirement for projects greater than \$2,500. To utilize the same electronic format as grant applications for application amendments.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-1, pages 215 through 221.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

DATED this 3rd day of July, 2003.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720  
Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631

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### **IDAPA 48, TITLE 01, CHAPTER 03**

#### **RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-1, January 1, 2003, pages 215 through 221.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 48 - DEPARTMENT OF COMMERCE

#### 48.01.03 - RULES GOVERNING IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

DOCKET NO. 48-0103-0301

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** These temporary rules are effective October 3, 2002.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted temporary rules, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than January 15, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

- To revise the existing rules to increase the limit at which grantees can shift ITC dollars (\$2,500) between line items during a grant cycle.
- To raise the formal bid requirement for projects greater than \$2,500.
- To utilize the same electronic format as grant applications for application amendments.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Confers a benefit.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with Idaho Department of Commerce staff, the Idaho Travel Council, and industry participants of the ITC grant program at the Idaho Travel Council meeting October 2-3, Rexburg, Idaho. Discussion was generated prior to this meeting and an on-line survey conducted to revise and improve the existing rules.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 22, 2003.

DATED this 7th day of November, 2002.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720  
Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0103-0101

**010. DEFINITIONS, REGIONAL/LOCAL/SPECIAL INTEREST PROMOTION.**

The applicant must establish that the plan will attract more visitors to the region and keep them in the region longer. All plans must identify Idaho and market various attractions and events throughout the region. Regional applications must be a true region-wide promotion, and must promote the planning region as defined in the legislation. The following items are eligible projects: (10-3-01)T

**01. Advertising.** Ranked Primary. Priority will be given to advertising that is image-driven and targets specific attractions or events within the region and ties to the state advertising plan. Markets, concepts, attractions and events will be defined in the application. If developed as a co-op, pre-approval is required by the Department of Commerce. Applicant must state in the application: (10-3-01)T

**a.** Objective and placement of advertising. (2-22-93)

**b.** Geographic target audience. (2-22-93)

**c.** Demographic target audience. (2-22-93)

**d.** Fulfillment plans. (2-22-93)

**02. Hospitality.** Ranked Primary. Hospitality training will be an allowable item under the grant program. A detailed plan for the training must be included in the application. (2-22-93)

**03. Convention Promotion.** Ranked Primary. Trade shows (to be approved prior to the application process) and convention advertising. Concept and placement must be submitted with application. (2-22-93)

**04. Site Visits/Familiarization Tours (FAMS).** Ranked Primary. Tour Operators, Travel Writers, Convention Planners, Winters Sports Clubs and Airline Sales People are groups that can be invited for site visits and FAMS. Grant funds can be used for in-state transportation, fuel expenses, rental vans, motorcoaches, invitations, baggage tags, information folders and miscellaneous snacks, such as coffee, soda pop, and candy bars. Airfare for FAM participants, up to fifty percent (50%) of the total cost, and lodging at fifty percent (50%) of the state rate will be eligible with prior ITC staff approval. Grant funds cannot be used to pay for alcoholic beverages, and attractions. Familiarization tours will be allowed per diem for meals in accordance with state guidelines. Partial reimbursement, per state guidelines, will be made if participant is not being hosted on the FAM tour a complete day. FAMS must be coordinated and approved in writing by the Department of Commerce. (10-3-01)T

**05. Fulfillment.** Ranked Primary. Includes expenses directly related to implementing ITC funded plan. Eligible costs are for shipping, stuffing, sorting, envelopes, postage, eligible website costs per ITC guidelines, long distance phone calls and watts line. (Only one (1) 1-800 line per Region, and it must be centrally located and made available for use within the Region for travel and convention promotion). A distribution plan must be outlined in the application and expenses must be properly documented before reimbursement will be made. (10-3-01)T

**06. Travel And Trade Shows.** Ranked Primary. Specific shows and the number of attendees per show shall be approved prior to the application process. The applicant must identify in the application whether or not a portable display booth is available and what literature will be distributed at the show. (2-22-93)

**07. Slide Shows/Videos.** Ranked Tertiary. Applicant must state in the application the purpose of the slide show/video, how it will be used to promote the area, and how the slide show/video ties in with the applicant's overall marketing. (2-22-93)

**08. Marketing Research.** Ranked Primary. To allow marketing research in conjunction with the statewide marketing and research efforts. (2-22-93)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**DEPARTMENT OF COMMERCE**  
**Regional Travel and Convention Grant Program****Docket No. 48-0103-0301**  
**Temporary and Proposed Rulemaking**

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**09. Capital Outlay.** Ranked Secondary. Equipment with a useful life of more than one (1) year, costing one hundred fifty dollars (\$150) or more per unit. No more than one (1) piece of any like equipment per Region. (7-1-98)

**a.** Subject to the obligations and conditions set forth in this section, title to equipment acquired under a grant will vest upon acquisition with the grantee. (2-22-93)

**b.** Useful Life. The useful life of all equipment acquired through the travel grant program is five (5) years. (2-22-93)

**c.** Use. (2-22-93)

**i.** Equipment shall be used by the grantee in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by the ITC. When no longer needed for the original program or project, the equipment may be used in other activities currently or previously supported by the ITC. (2-22-93)

**ii.** The grantee shall also make equipment available for use on other projects or programs currently or previously supported by the ITC, providing such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use shall be given to other programs or projects supported by the ITC. (2-22-93)

**iii.** The grantee may not use equipment acquired with grant funds to provide services for a fee. (2-22-93)

**iv.** When acquiring replacement equipment, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property; or, the proceeds will be reinvested into the grantee's current grant program, subject to the approval of the ITC. Sale proceeds are not cash match. (2-22-93)

**d.** Management Requirements. Capital outlay purchased with grant funds must be accounted for on the property record supplied by the ITC. When the property is initially purchased, the grantee will provide all the required information on the property record. Send the original to the Department of Commerce and keep a copy for your files. The property is tracked through its useful life. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, as a minimum, meet the following requirements: (2-22-93)

**i.** Property records maintained must include a description of the property; a serial number or other identification number; the acquisition date and cost of the property; the location, use and condition of the property; and any ultimate disposition information including the date of disposal and sale price of the property. (2-22-93)

**ii.** The grantee will conduct an annual physical inventory of the property and the results will be reported to the ITC for reconciliation with the property records. This report will accompany the final narrative progress report, and must be received before final ITC reimbursement, to the grantee, is made. The ITC will conduct a physical inventory of the property at least once every two (2) years. (2-22-93)

**iii.** A control system must be developed to ensure adequate safeguards to prevent loss, damage or theft of the property. (2-22-93)

**iv.** Adequate maintenance procedures must be developed to keep the property in good condition. (2-22-93)

**e.** Disposition. Disposition of equipment purchased with ITC funds will be made as follows: (7-1-98)

**i.** Items of equipment which have exceeded their useful life may be retained, sold or otherwise disposed of. It is recommended the sale proceeds be used to acquire like equipment or enhance the grantee's current grant program. Sale proceeds are not cash match. (2-22-93)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

ii. Items of equipment which have not exceeded their useful life may be sold with written authorization from the ITC. The grantee will be required to use the proceeds to purchase like equipment or to enhance the current grant program. (2-22-93)

f. Procurement. When procuring equipment under the travel grant program, the grantee will follow the same policies and procedures for purchases over ~~two~~ five thousand ~~five hundred~~ dollars (\$2,500) as outlined in the Bid Process section of the administrative rules. ~~(3-19-99)~~ (10-3-02)T

g. Purchasable Equipment. A list of purchasable equipment under the travel grant program is listed below: (2-22-93)

i. Travel Show Booth (per ITC requirements). (2-22-93)

ii. Video Equipment: Player/Recorder, Television, Monitor, Camera. (2-22-93)

iii. Movie Projector. (2-22-93)

iv. Slide Projector. (2-22-93)

v. Computer Hardware per ITC guidelines. (10-3-01)T

vi. Equipment not listed above may be fundable at the discretion of the ITC. (2-22-93)

h. Rental Costs. Grantees are encouraged to complete projects in the most cost effective manner. If the purchase of equipment is not feasible due to a low use factor, the grantee will be allowed to enter into rental agreements to meet their equipment needs. Rental costs exceeding ~~two~~ five thousand ~~five hundred~~ dollars (\$2,500) will not be exempt from the travel grant program's bid process. ~~(3-19-99)~~ (10-3-02)T

i. Application. When applying for grant funds to acquire equipment, the applicant must stipulate need for equipment, its location, intended use, and contact person. (2-22-93)

10. **Brochure.** Ranked Primary. Includes expenses for brochure photography, design, and printing. Applicant shall state the purpose of the brochure, indicate if it is a reprint or new design, provide an estimated amount to be printed, and give a brief description of its layout and design. Additionally, applicant shall indicate its target audience, distribution plan, and include samples of the brochure, if available. For printing requirements, see Subsection 204.08. (2-22-93)

11. **Other Items.** Any other items not included above may be eligible as pre-approved by the Department of Commerce. (2-22-93)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **204. PLAN REQUIREMENTS.**

Applicants must follow these requirements: (2-22-93)

01. **Goals/Objectives.** The needs of the plan must be consistent with the ITC Strategic Objectives. (2-22-93)

02. **Adequate Management.** The applicant must show his/her ability to properly operate and maintain the management and accounting system for the plan. (7-1-98)

03. **Previous Grant Versus New Application.** The ITC encourages successful applicants to complete all grants in a timely fashion. When considering applicants for funding, the ITC will scrutinize the applicant's historic

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

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**DEPARTMENT OF COMMERCE**  
**Regional Travel and Convention Grant Program****Docket No. 48-0103-0301**  
**Temporary and Proposed Rulemaking**

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grant record in terms of timeliness and effectiveness of implementation. (2-22-93)

**04. Application Completeness.** The applicant must submit applications to the Department of Commerce on the appropriate forms which will be provided by the department. The application must include a complete plan, grant summary sheet signed by the grantee, a detailed scope of work and a budget which includes sufficient funds for sales tax and an audit. (7-1-98)

**05. Application Amendments/Withdraws.** Amendments to either the scope of work or the budget on grant applications will be allowed only if ~~written~~ changes are submitted ~~(one (1) original and fourteen (14) copies)~~ to the Department of Commerce ten (10) working days prior to the grant awards utilizing the same format as the application submittal. Any other changes must occur on the floor during awards by the Council and can only be amended by a member of the Council. Applicants wishing to withdraw applications must provide written notice to the Department of Commerce ten (10) working days prior to grant awards. ~~(2-22-93)~~(10-3-02)T

**06. Plan Duration.** Applicants are encouraged to limit the duration of their plan to fourteen (14) months or less. (2-22-93)

**07. Local/Regional Support.** Applicants may show local/regional support of the plan by submitting up to three (3) letters of support. One (1) letter summarizing local match must be submitted with the application. (2-22-93)

**08. Credit Logo And Printing Identification.** All plans funded by the Idaho Regional Travel and Convention Grant Program shall credit said program. (1-22-02)T

**a.** A logo, as determined and provided by the ITC, with the following guidelines, will be placed on all ITC funded brochures. Special permission to adjust the size of the approved ITC logo, except where specified in these rules, must be granted by the state. (10-3-01)T

**i.** The approved ITC logo will be used in all publications in a color in keeping with the design of the piece and must be pre-approved by ITC staff before final printing. (1-22-02)T

**b.** Eight and one-half by eleven inch (8 1/2" x 11") or larger brochures will incorporate the use of a one-half inch (1/2") logo; eight by ten inch (8" x 10") or smaller brochures, will incorporate the use of a one-fourth inch (1/4") logo. (10-3-01)T

**c.** Printing Identification: ITC grant year, assigned ITC grant number, printed quantity. (10-3-01)T

**d.** State 800 Telemarketing Number: "For additional information on Idaho, call 1-800-VISIT-ID." (2-22-93)

**e.** The word "IDAHO" shall appear prominently on the front of the brochure. The ITC approved logo will appear on either the front cover, the inside front cover, or the back cover of the brochure. (10-3-01)T

**f.** Other printed materials, web sites, and print advertising shall include the approved ITC logo. Size of logo to be proportional to the size of website or publication. See [www.idoc.state.id.us](http://www.idoc.state.id.us) for current downloadable graphic elements. (10-3-01)T

**i.** Slide shows, videos, films, TV productions or commercials will include the approved ITC logo. Size to be proportional to the size of the grantee approved content. (10-3-01)T

**ii.** Radio advertisements will include the following ITC acknowledgement: "Paid Idaho Travel Council". (10-3-01)T

**iii.** Billboards will include the approved ITC logo. Size to be proportional to the size of the display. (10-3-01)T

**iv.** Trade show booths will display the approved ITC logo in a size and location easily viewable by the

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

public. (10-3-01)T

**g.** Fams funded by the Idaho Regional Travel and Convention Grant Program will credit that program with the approved ITC logo in materials appropriate to the event. (10-3-01)T

**h.** Failure to comply with crediting the ITC for project funding could jeopardize payment for that project and future plan funding. (2-22-93)

**09. Consultants.** Indirect personnel costs are inherently eligible when applying for a specific project to be subcontracted to a consultant. The following regulations apply to hiring a consultant: (7-1-98)

**a.** The contract between the consultant and the grantee must be approved by the Department of Commerce and shall include language stating the contractor has sufficient Workmen's Compensation or liability insurance. Payment will not be reimbursed until the Department of Commerce has approved the contract. (2-22-93)

**b.** Consultant's billing must be itemized. Lump sum billings will not be eligible for payment. (2-22-93)

**c.** The Council will not fund retainers or other regular ongoing fees for consultant services or pay a consultant to administer a grant. (2-22-93)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **209. BID PROCESS.**

**01. Bids.** Regional Travel and Convention Program grantees must utilize a bid process for purchases or services over ~~two~~ five thousand ~~five hundred~~ dollars (\$2,500). ~~(3-19-99)~~ (10-3-02)T

**02. Documentation.** Prior to reimbursement for each cost, the appropriate information shall be submitted to the Department of Commerce which documents the following: (2-22-93)

**a.** Item or service to be purchased. (7-1-98)

**b.** Informal bids are required for projects between one thousand five hundred dollars (\$1,500) and ~~two~~ five thousand ~~five hundred~~ dollars (\$2,500). This consists of contacting three (3) vendors. Formal bids are required for projects greater than ~~two~~ five thousand ~~five hundred~~ dollars (\$2,500). This requires three (3) written bids from vendors. ~~(10-3-01)T~~ (10-3-02)T

**c.** List vendors contacted and their response (list those contacted whether or not a response was received). (7-1-98)

**d.** Justify why the successful vendor was selected. (2-22-93)

**e.** Annual renewal of the subcontract can be made without rebidding, upon execution of a new contract between the grantee and the subcontractor and approval by the Department of Commerce. This can be done only after the initial three (3) bids have been processed. Subcontract renewal is authorized for up to three (3) years beyond the initial contract year. (7-1-98)

**f.** If a vendor is going to donate part of his/her charges as match, he/she shall have been the lowest bidder. (2-22-93)

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

(BREAK IN CONTINUITY OF SECTIONS)

**222. PLAN SELECTION.**

The Idaho Travel Council is responsible for the selection of plans to be awarded. Selection of Regional Travel and Convention Grants is as follows: (2-22-93)

**01. Committee Presentation.** At a regularly scheduled ITC meeting, applications for the Regional Travel and Convention Grant Program are presented, discussed and voted upon by the Idaho Travel Council. Grant applicants may be present to comment and answer questions. (2-22-93)

**02. Contract Preparation.** Once the Idaho Travel Council has selected plans to be funded, the Department of Commerce will notify all applicants, by letter, of their funding status. (2-22-93)

**a.** All contracts will be signed for a period of no more than fourteen (14) months unless otherwise stipulated in the contract. (2-22-93)

**b.** If applicable, special conditions of funding will be outlined. (2-22-93)

**c.** The grant will take effect upon the date of award. Grant monies cannot be obligated or expended until that date. No expenditures can be reimbursed until the contract is signed by the Director of the Department of Commerce. (2-22-93)

**d.** Extensions and amendments shall be discouraged. However, in the event of an extension or amendment, the grantee may shift, ~~with written notification~~, up to ~~two thousand five hundred (\$2,500)~~ twenty-five percent (25%) of the total ITC dollars awarded, between line items, not to exceed ten thousand dollars (\$10,000) during the entire grant cycle. The grantee must complete the appropriate amendment form, and all ITC members will vote on each amendment, for dollar amounts in excess of ~~two ten~~ thousand ~~five hundred~~ (\$2,510,000). From the Department of Commerce, extensions of up to ninety (90) days can be granted. ~~(4-5-00)(10-3-02)T~~

**e.** In the event a plan can be completed for less than the grant amount, the difference between actual plan costs and the grant amount shall revert to the respective regional grant funds. (2-22-93)

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 48 - DEPARTMENT OF COMMERCE**

#### **48.01.03 - RULES GOVERNING IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**DOCKET NO. 48-0103-0302**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

To change the existing, required radio advertising credit statement and replace with a message driven, Idaho Travel Council approved statement.

The pending rule is being adopted as proposed. The original text of the proposed rule was published in the September 3, 2003 Idaho Administrative Bulletin, Volume 03-9, pages 232 through 234.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

DATED this 25th day of September, 2003.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720, Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631

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### **IDAPA 48, TITLE 01, CHAPTER 03**

#### **RULES GOVERNING IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-9, September 3, 2003, pages 232 through 234.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### IDAPA 48 - DEPARTMENT OF COMMERCE

#### 48.01.03 - RULES OF THE IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM

##### DOCKET NO. 48-0103-0302

#### NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

**EFFECTIVE DATE:** The effective date of the temporary rule is May 13, 2003.

**AUTHORITY:** In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 67-4715, 67-4717, and 67-4718, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 17, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

To change the existing, required radio advertising credit statement and replace with a message driven, Idaho Travel Council approved statement.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section 67-5226(1)(c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Conferring a benefit.

**FEE SUMMARY:** Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: NA

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was conducted with Idaho Department of Commerce staff and designated advertising agency, the Idaho Travel Council, and industry participants of the ITC grant program during industry meetings in 2002 - 2003. Discussion was generated to revise and improve the existing rules in regards to the required credit statement and finalized at the Idaho Travel Council meeting April 29, 2003 in Worley, Idaho.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Idaho Department of Commerce, Carl Wilgus (208) 334-2470.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 24, 2003.

DATED this 25th Day of July, 2003.

Carl Wilgus  
Administrator, Tourism Development  
Department of Commerce  
700 W. State St.  
PO Box 83720  
Boise ID 83720-0093  
(208) 334-2470; FAX (208) 334-2631.



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### THE FOLLOWING IS THE TEXT OF DOCKET NO. 48-0103-0101

**204. PLAN REQUIREMENTS.**

Applicants must follow these requirements: (2-22-93)

- 01. Goals/Objectives.** The needs of the plan must be consistent with the ITC Strategic Objectives. (2-22-93)
- 02. Adequate Management.** The applicant must show his/her ability to properly operate and maintain the management and accounting system for the plan. (7-1-98)
- 03. Previous Grant Versus New Application.** The ITC encourages successful applicants to complete all grants in a timely fashion. When considering applicants for funding, the ITC will scrutinize the applicant's historic grant record in terms of timeliness and effectiveness of implementation. (2-22-93)
- 04. Application Completeness.** The applicant must submit applications to the Department of Commerce on the appropriate forms which will be provided by the department. The application must include a complete plan, grant summary sheet signed by the grantee, a detailed scope of work and a budget which includes sufficient funds for sales tax and an audit. (7-1-98)
- 05. Application Amendments/Withdraws.** Amendments to either the scope of work or the budget on grant applications will be allowed only if changes are submitted to the Department of Commerce ten (10) working days prior to the grant awards utilizing the same format as the application submittal. Any other changes must occur on the floor during awards by the Council and can only be amended by a member of the Council. Applicants wishing to withdraw applications must provide written notice to the Department of Commerce ten (10) working days prior to grant awards. (10-3-02)T
- 06. Plan Duration.** Applicants are encouraged to limit the duration of their plan to fourteen (14) months or less. (2-22-93)
- 07. Local/Regional Support.** Applicants may show local/regional support of the plan by submitting up to three (3) letters of support. One (1) letter summarizing local match must be submitted with the application. (2-22-93)
- 08. Credit Logo And Printing Identification.** All plans funded by the Idaho Regional Travel and Convention Grant Program shall credit said program. (5-3-03)
  - a.** A logo, as determined and provided by the ITC, with the following guidelines, will be placed on all ITC funded brochures. Special permission to adjust the size of the approved ITC logo, except where specified in these rules, must be granted by the state. (5-3-03)
    - i.** The approved ITC logo will be used in all publications in a color in keeping with the design of the piece and must be pre-approved by ITC staff before final printing. (5-3-03)
    - b.** Eight and one-half by eleven inch (8 1/2" x 11") or larger brochures will incorporate the use of a one-half inch (1/2") logo; eight by ten inch (8" x 10") or smaller brochures, will incorporate the use of a one-fourth inch (1/4") logo. (5-3-03)
  - c.** Printing Identification: ITC grant year, assigned ITC grant number, printed quantity. (5-3-03)
  - d.** State 800 Telemarketing Number: "For additional information on Idaho, call 1-800-VISIT-ID." (2-22-93)
  - e.** The word "IDAHO" shall appear prominently on the front of the brochure. The ITC approved logo

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

will appear on either the front cover, the inside front cover, or the back cover of the brochure. (5-3-03)

f. Other printed materials, web sites, and print advertising shall include the approved ITC logo. Size of logo to be proportional to the size of website or publication. See [www.idoc.state.id.us](http://www.idoc.state.id.us) for current downloadable graphic elements. (5-3-03)

i. Slide shows, videos, films, TV productions or commercials will include the approved ITC logo. Size to be proportional to the size of the grantee approved content. (5-3-03)

ii. Radio advertisements will include the following ITC acknowledgement: ~~“Paid Idaho Travel Council Visit Scenic Idaho”~~. (5-3-03)(5-13-03)T

iii. Billboards will include the approved ITC logo. Size to be proportional to the size of the display. (5-3-03)

iv. Trade show booths will display the approved ITC logo in a size and location easily viewable by the public. (5-3-03)

g. Fams funded by the Idaho Regional Travel and Convention Grant Program will credit that program with the approved ITC logo in materials appropriate to the event. (5-3-03)

h. Failure to comply with crediting the ITC for project funding could jeopardize payment for that project and future plan funding. (2-22-93)

**09. Consultants.** Indirect personnel costs are inherently eligible when applying for a specific project to be subcontracted to a consultant. The following regulations apply to hiring a consultant: (7-1-98)

a. The contract between the consultant and the grantee must be approved by the Department of Commerce and shall include language stating the contractor has sufficient Workmen’s Compensation or liability insurance. Payment will not be reimbursed until the Department of Commerce has approved the contract. (2-22-93)

b. Consultant’s billing must be itemized. Lump sum billings will not be eligible for payment. (2-22-93)

c. The Council will not fund retainers or other regular ongoing fees for consultant services or pay a consultant to administer a grant. (2-22-93)

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

#### **59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**DOCKET NO. 59-0103-0301**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1314(1) and 72-1405 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change. The 2003 legislature has enacted Senate Bill 1050, which essentially transfers administration and funding of most public safety death benefits to PERSI, and expands eligibility for such benefits to firefighters who are active members of PERSI or FRF retirement funds. The bill's fiscal note indicated an estimated increase in employer costs of one-tenth of one percent of payroll (.10%). The bill adds a new section, 59-1361A, Idaho Code, which governs the benefit. Subsection (5) requires that the costs associated with this benefit be paid as an additional contribution component by the employers of those public safety officers who are eligible for the benefit. Because this benefit is effective July 1, 2003, the Retirement Board finds that it is necessary to adopt a temporary rule to comply with the legislation and fund the required benefits. This change increases the employer rate on public safety officers by one-tenth of one percent (.10%).

The pending rule is being adopted as proposed. The original text of the temporary and proposed rule was published in the June 4, 2003 Idaho Administrative Bulletin, Volume 03-6, pages 99 and 100.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 21st day of October, 2003.

Alan H. Winkle, Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th St., Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: (208) 334-3365 FAX: (208) 334-3804

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#### **IDAPA 59, TITLE 01, CHAPTER 03**

#### **CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-6, June 4, 2003, pages 99 and 100.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

#### **59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**DOCKET NO. 59-0103-0301**

#### **NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The temporary rule is effective July 1, 2003.

**AUTHORITY:** In compliance with Sections 67-5222(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than June 18, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodations must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The 2003 legislature has enacted Senate Bill 1050, which essentially transfers administration and funding of most public safety death benefits to PERSI, and expands eligibility for such benefits to firefighters who are active members of PERSI or FRF retirement funds. The bill's fiscal note indicated an estimated increase in employer costs of one-tenth of one percent (.10%) of payroll.

The bill adds a new Section, 59-1361A, Idaho Code, which governs the benefit. Subsection 59-1361A(5), Idaho Code, requires that the costs associated with this benefit be paid as an additional contribution component by the employers of those public safety officers who are eligible for the benefit. Because this benefit is effective July 1, 2003, the Retirement Board finds that it is necessary to adopt a temporary rule to comply with the legislation and fund the required benefits. The rules are being amended to increase the employer rate on public safety officers by one-tenth of one percent (.10%).

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Sections 67-5226(1)(b), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: This rule change implements changes in governing law made by the 2003 legislature that are effective July 1, 2003.

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Retirement Board has exclusive fiduciary responsibility for plan operations.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rules, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 25, 2003.

DATED this 22nd day of April, 2003.

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-3365 / FAX: 208-334-3804

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### **PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO Contribution Rules for PERSI**

**Docket No. 59-0103-0301  
Temporary and Proposed Rule**

#### **THE FOLLOWING IS TEXT OF DOCKET NO. 59-0103-0301**

#### **027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27).**

The Firefighter Retirement Fund employer rate shall be:

(10-1-94)

**01. Option I And II Firefighters.** For option I and II firefighters hired before October 1, 1980, thirty-five ~~six point ninety~~ percent (35~~6-90~~%) of payroll, as follows:

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point <del>zero one</del> -one percent (10.0 <del>1</del> 1%) until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-five <del>six point ninety</del> percent (35 <del>6-90</del> %)

(~~3-30-01~~)(7-1-03)T

**02. Class D Firefighters.** For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund) twenty-seven point ~~twenty~~ thirty-five percent (27.2~~35~~%) of payroll, as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point <del>zero one</del> -one percent (10.0 <del>1</del> 1%) until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point <del>twenty</del> <u>thirty</u> -five percent (27.2 <del>35</del> %)

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (~~Amended 3-30-01~~)

(~~3-30-01~~)(7-1-03)T

#### **028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police member excluding those listed in Rule 29 of this chapter and firefighters excluding those listed in Rule 27 of this chapter shall be ten point ~~zero one~~-one percent (10.0~~1~~1%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (~~Amended 3-30-01~~)

(~~3-30-01~~)(7-1-03)T

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

#### **59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**DOCKET NO. 59-0103-0302**

#### **NOTICE OF RULEMAKING - PENDING RULE**

**EFFECTIVE DATE:** This pending rule has been adopted by the agency and is now pending review by the 2004 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved, rejected, amended or modified by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved, amended or modified by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

**AUTHORITY:** In compliance with Sections 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 59-1314(1) and 72-1405 Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending rule and a statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for the change.

The pending rule is being adopted as proposed. The original text of the proposed rule and an explanatory statement were published in the July 2, 2003 Idaho Administrative Bulletin, Volume 03-7, pages 86 through 90.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending rule, contact Alan H. Winkle, Executive Director of PERSI, 334-3365.

DATED this 21st day of October, 2003.

Alan H. Winkle, Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th St., Boise, ID 83702  
P.O. Box 83720  
Boise, ID 83720-0078  
Phone: (208) 334-3365  
FAX: (208) 334-3804

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#### **IDAPA 59, TITLE 01, CHAPTER 03**

#### **CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

**There are no substantive changes from the proposed rule text.**

**The complete text of the proposed rule was published in the Idaho Administrative Bulletin, Volume 03-7, July 2, 2003, pages 86 through 90.**

**This rule has been adopted as a pending rule by the Agency and is now pending review and approval by the 2004 Idaho State Legislature as a final rule.**

## **2004 - Commerce and HR Senate Pending Rule (Yellow)**

### **IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO**

#### **59.01.03 - CONTRIBUTION RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)**

**DOCKET NO. 59-0103-0302**

#### **NOTICE OF RULEMAKING - PROPOSED RULE**

**AUTHORITY:** In compliance with Sections 67-5222(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 59-1314(1) and 72-1405, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than July 16, 2003.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Section 59-1322(1), Idaho Code, requires the Board to establish contribution rates to properly fund benefits, with certain restrictions. The Retirement Board has determined, based on actuarial valuation of reserves and liabilities that it is necessary to increase contribution rates back to the levels that existed prior to November 1, 1997. These increases are necessary due, in part, to the poor performance of financial markets over the last three (3) years. The rate increase will be phased in equally over a three (3) year period (about one percent per year) beginning July 1, 2004, with subsequent increases on July 1, 2005 and July 1, 2006. These increases will affect both employers and employees since, by law, contributions are allocated 37.5 percent to employees and 62.5 percent to employers. Further adjustments in rates may be necessary depending on future market conditions.

Also included is a technical amendment to the title in Rule 1, and an amendment to Rule 2 to reflect the new address of PERSI's Coeur d'Alene office. A new subsection is added to Rule 27 to clarify the contribution rate applicable to certain general members (class E members) who are "paid firefighters" for purposes of excess merger costs under the Firemen's Retirement Fund but who are not considered PERSI firefighters for benefit purposes. Rule 114 is amended to clarify eligibility while the member is on a leave of absence occasioned by an approved worker's compensation claim. Rule 176 is amended to make it consistent with recent changes to Section 59-1325, Idaho Code, requiring payment of contributions within five (5) days of each pay date.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: N/A

**NEGOTIATED RULEMAKING:** Pursuant to IDAPA 04.11.01.811, negotiated rulemaking was not conducted because the Retirement Board has exclusive fiduciary responsibility for plan administration.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Alan H. Winkle, Executive Director of PERSI, at 334-3365.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 23, 2003.

DATED this 20th day of May, 2003.

Alan H. Winkle  
Executive Director  
Public Employee Retirement System of Idaho  
607 N. 8th, Boise, ID 83702  
P.O. Box 83720, Boise, ID 83720-0078  
Phone: 208-334-3365 / FAX: 208-334-3804

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

THE FOLLOWING IS THE TEXT OF DOCKET NO. 59-0103-0302

**59.01.03 - PERSI CONTRIBUTION RULES ~~FOR THE PUBLIC EMPLOYEE~~  
~~RETIREMENT SYSTEM OF IDAHO (PERSI)~~**

**001. TITLE AND SCOPE (Rule 1).**

The title of this chapter is IDAPA 59.01.03, "PERSI Contribution Rules"~~Regarding Contributions.~~ ~~(1-1-94)~~( )

**002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (Rule 2).**

Written interpretations of these rules, to the extent they exist, are available from PERSI, at the following locations:

PERSI Boise Office  
607 North Eighth Street  
Boise, Idaho 83702  
Phone: 208/334-3365 or 1-800-451-8228  
Fax: 208/ 334-4026

PERSI Pocatello Office  
850 E. Center, Suite D  
Pocatello, Idaho 83201  
Phone: 208/236-6225 or 1-800-762-8228  
Fax: 208/236-6159

PERSI Coeur d'Alene Office  
2005 Ironwood Parkway, Suite ~~4226~~  
Coeur d'Alene, Idaho 83814  
Phone: 208/769-1474 or 1-800-962-8228  
Fax: 208/769-1476

~~(5-6-94)~~( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**026. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE (Rule 26).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, shall be nine point seventy-seven percent (9.77%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point thirty-nine percent (10.39%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven percent (11.00%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point sixty-one percent (11.61%) of payroll until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References:  
(Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) ~~(Amended 3-30-01)~~( )

**027. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE (Rule 27).**

The Firefighter Retirement Fund employer rate shall be: (10-1-94)

**01. Option I And II Firefighters.** For option I and II firefighters hired before October 1, 1980, ~~thirty-six percent (36%) of payroll,~~ as follows:



## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### PUBLIC EMPLOYEE RETIREMENT SYSTEM PERSI Contribution Rules

Docket No. 59-0103-0302  
Proposed Rulemaking

Option I And II Firefighters	
PERSI Employer Contribution Rate:	Ten point <del>one-one</del> eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.
Additional Employer Rate:	One percent (1.00%)
Social Security Rate:	Seven point sixty-five percent (7.65%)
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Thirty-six percent (36%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be thirty-six point sixty-two percent (36.62%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be thirty-seven point twenty-three percent (37.23%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be thirty-seven point eighty-four percent (37.84%) of payroll until next determined by the Board.

(7-1-03)F( )

**02. Class D Firefighters.** For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund) ~~twenty-seven point thirty-five percent (27.35%) of payroll~~, as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	Ten point <del>one-one</del> eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.
Excess Merger Costs:	Seventeen point twenty-four percent (17.24%) until next determined by the Board.
TOTAL Contribution:	Twenty-seven point thirty-five percent (27.35%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be twenty-seven point ninety-seven percent (27.97%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be twenty-eight point fifty-eight percent (28.58%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be twenty-nine point nineteen percent (29.19%) of payroll until next determined by the Board.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) ~~(Amended 7-1-03)~~ (7-1-03)F( )

**03. Class E Members.** For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 26, plus the excess merger costs specified in Subsection 027.01. ( )

## 2004 - Commerce and HR Senate Pending Rule (Yellow)

### **PUBLIC EMPLOYEE RETIREMENT SYSTEM PERSI Contribution Rules**

**Docket No. 59-0103-0302  
Proposed Rulemaking**

#### **028. PERSI EMPLOYER CLASS II CONTRIBUTION RATE (Rule 28).**

The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, for an employee classified as a police officer member excluding those listed in Rule 29 of this chapter when applicable, and firefighters excluding those listed in Rule 27 of this chapter, shall be ten point ~~one-one~~ eleven percent (10.11%) of payroll through June 30, 2004. Beginning July 1, 2004, the rate shall be ten point seventy-three percent (10.73%) of payroll through June 30, 2005. Beginning July 1, 2005, the rate shall be eleven point thirty-four percent (11.34%) of payroll through June 30, 2006. Beginning July 1, 2006, the rate shall be eleven point ninety-five percent (11.95%) of payroll until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) ~~(7-1-03)~~(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **100. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE (Rule 100).**

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, for all members not classified as police members or firefighters, shall be five point eighty-six percent (5.86%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be six point twenty-three percent (6.23%) of salary through June 30, 2005. Beginning July 1, 2005, the rate shall be six point sixty percent (6.60%) of salary through June 30, 2006. Beginning July 1, 2006, the rate shall be six point ninety-seven percent (6.97%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) ~~(3-30-01)~~(\_\_\_\_)

#### **101. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE (Rule 101).**

The employee contribution rate as provided in Section 59-1334, Idaho Code, for an employee classified as a police officer member is seven point twenty-one percent (7.21%) of salary through June 30, 2004. Beginning July 1, 2004, the rate shall be seven point sixty-five percent (7.65%) of salary through June 30, 2005. Beginning July 1, 2005, the rate shall be eight point zero-nine percent (8.09%) of salary through June 30, 2006. Beginning July 1, 2006, the rate shall be eight point fifty-three percent (8.53%) of salary until next determined by the Board.

Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) ~~(3-30-01)~~(\_\_\_\_)

### **(BREAK IN CONTINUITY OF SECTIONS)**

#### **114. CONTRIBUTIONS DUE WHILE MEMBER IS RECEIVING WORKER'S COMPENSATION (Rule 114).**

**01. Contributions Due And Payable.** Contributions are due and payable on whatever percentage of salary is paid while the member is on a leave of absence occasioned by an approved worker's compensation claim and the member will be entitled to a month of membership service credit for each month the member remains ~~in this circumstance~~ eligible. ~~(1-1-94)~~(\_\_\_\_)

**02. Accruing Service.** This means for an employee to continue accruing service the employer must continue to pay salary equal to the lesser of: (\_\_\_\_)

**a.** The amount necessary to meet the statutory definition of employee (half-time at the pre-injury rate or more), or (\_\_\_\_)

**b.** The employee's full-time salary less the employee's worker's compensation income benefit. (\_\_\_\_)

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**03. Maintaining Eligibility For Injured Workers.** The intent of this rule is to permit employers to maintain eligibility for injured workers without having to pay salary that, when added to the employee's worker's compensation income benefit, would exceed the employee's total salary prior to the injury. Eligibility Rule 122 is inapplicable to the extent it conflicts with this rule. ( )

### **(BREAK IN CONTINUITY OF SECTIONS)**

**176. TRANSFER OF CONTRIBUTIONS TO PERSI (Rule 176).**

Employee and employer contributions shall be calculated and forwarded to PERSI by each employer for each employee that meets the statutory definition of "employee" as defined in Section 59-1302 (14), Idaho Code. All Contributions shall be remitted, together with an approved report to PERSI no later than ~~twenty~~ five (205) days after each pay date as provided in Section 59-1325(1), Idaho Code. ~~(3-30-01)~~( )

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